

ZONING ORDINANCE

TOWN OF AMHERST



MARCH 2003

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SECTION A ZONING ORDINANCE

ARTICLE I

PREAMBLE

Section 1-1 Purpose and Authority

The zoning and building regulations and districts as set down in this Ordinance are for the purpose of promoting the public health, safety, and general welfare of the Town of Amherst as provided for by Chapter 672, New Hampshire Revised Statutes Annotated, as may be amended. Town properties and Town political subdivisions including but not limited to Fire, Police, and Public Works, shall be subject to the Town's Zoning Ordinance, Site plan and Subdivision regulations and any building, code, health, fire or safety regulation of the Town, except for any use regulation which may be contained within. (3-14-67/3-14-89) 3-13-90, 3-9-99

The purpose of the Zoning Ordinance of the Town of Amherst is to implement the goals of the orderly development and growth of the Town as set forth in the Master Plan adopted in November 1980 and future revisions of the Master Plan as the needs of the Town dictate. 11-2-82

ARTICLE II

ESTABLISHMENT OF DISTRICTS

Section 2-1 Division of Town into Districts

For the purpose of this Ordinance, the Town of Amherst is divided into the following districts as shown on the official tax map overlays. 3-12-63

AC	Aquifer Conservation district	3-13-84
C	Commercial zone	3-12-63
FP	Flood Plain Conservation District	3-10-70
GO	General Office	3-12-85
HD	Historic District (3-10-70)	3-11-86
I	Industrial Zone	3-2-76
LC	Limited Commercial Zone	3-2-76
NR	Northern Rural Zone	3-2-76
NTR	Northern Transitional Zone	3-8-88
POD	Planned Office Development	3-10-87 (deleted 3-10-98)

RR	Residential/Rural Zone	3-11-93
W	Wetland Conservation District	3-6-73
WP	Watershed Protection District	3-2-76

Section 2-2 Zoning Map

The several districts provided for in Section 2-1 above, shall be bounded as shown on tax map overlays of the Town of Amherst, New Hampshire and by the Flood Plain Conservation District overlay and the Wetlands Conservation District overlay, the Aquifer Conservation District, together with the Historic District overlay, and all amendments and explanatory matter thereon, which is hereby declared to be a part of the Zoning Ordinance. As amended (3-11-80/3-13-84) 3-14-89

Section 2-3 Interpretation of Zoning District Boundary Lines

The zoning district boundary lines, as shown on tax map overlays are the center lines of streets and other public ways, the middle of the channel of waterways, or the center line of main tracts of railroad lines, unless otherwise indicated. Where the zoning district boundaries are so indicated that they parallel the center lines of streets and other public rights-of-way, such boundaries shall be interpreted as parallel thereto. Where an uncertainty exists as to the location of a boundary, the Board of Adjustment shall determine the exact line. 3-12-63

ARTICLE III

GENERAL ZONING PROVISIONS

Section 3-1 Nuisance Provision

Any use or other establishment that may be injurious or obnoxious because of the production or emission of smoke, fumes, dust, odor, refuse material, noise, vibration, radiation or like condition, or that endangers the health, safety, peace or enjoyment of the community, or tending to its disturbance or annoyance is prohibited. 3-11-63

Section 3-2 Non-conforming Uses and Non complying Setbacks

A. A pre-existing non-conforming use of land or structures may be continued although such use does not conform to the provisions of this Ordinance. Structures containing preexisting non-conforming uses may be enlarged or extended subject to the following:

1. If the conduct of the property owner is such that it will not substantially change the nature and the purpose of the original use and,
2. The proposed change would involve no substantially different impact on the neighborhood. (3-6-73) (3-9-82) (3-14-89) 3-11-93

B. A non-conforming use may be changed only to a use permitted in the district in which it is located. A permit is required for any change of use. (See Use Groups, Section 3-10) (3-6-73) 3-14-89

C. If a structure contains a non-conforming use and it is damaged by fire, flood, wind, or act of God, such structure may be reconstructed and used as before, provided such reconstruction is commenced within eighteen (18) months. (3-6-73) 3-14-89

D. A structure which does not comply with zoning setbacks may be repaired or structurally altered provided the repairs or alterations do not increase the degree of non-compliance. (3-6-73) 3-14-89

E. Structures which do not comply with zoning setbacks, when demolished for new construction, may be reconstructed where located before, providing there is no increase in non-compliance. 3-14-89

F. Existing conforming lots shall not be made non-conforming and existing non-conforming lots shall not be made more non-conforming by altering lot lines. 3-14-89

G. A non-conforming use which has been abandoned, vacated or discontinued for a period of 18 consecutive months, said non-conforming use shall be discontinued.

Section 3-3 Water Pollution Control Regulations

A. Water pollution control requirements shall be those required by laws and regulations of the State of New Hampshire as well as local ordinances. (3-6-73) 3-14-89

NOTE: See Section G for Water Pollution Control Regulations

Section 3-4 Signs 3-12-91

I. DEFINITIONS

Awning Any visual message incorporated into an awning attached to a building.

Banner Any sign, painted, printed or otherwise displayed on cloth, plastic film or similar material. 3-8-94

Building Inspector The Zoning Administrator and/or the person responsible for the administration of these provisions.

Business Sign District Shall include the Industrial and Limited Commercial Zones in the Town of Amherst and shall include those lots in the General Office Zone with frontage on NH Route 101A. 3-10-92

Copy-Change Sign A sign on which the visual message be periodically changed.

Directional Sign A sign limited to providing directional or guide information, on the most direct or simple route, on the location of an activity, business or event.

Free-Standing Any sign not attached or part of any building, but separate and affixed in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

General Sign District Shall include the General Office (except for those lots included in the Business Sign District). Residential/Rural, Northern Transitional and Northern Rural zones in the Town of Amherst. 3-10-92

Illuminated Sign Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign and which includes reflective and phosphorescent light.

Information Sign A sign, without advertising, designed and intended to convey information about a permitted use to the general public, to convey regulations or restrictions or to otherwise provide needed guidance.

Lineal Building Frontage The length of a ground level straight line or lines parallel to and equaling the length of the building front that includes the main public entrance/s the side of the building fronting on the principal roadway. In the case of a multi-unit development, the frontage of each separate building is additive for the purpose of determining permissible sign area.

Off -Premises Sign A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

Portable Sign A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not attached to the ground, a building, a structure or another sign.

Prohibited Signs No banners, pennants, ribbons, streamers, spinners of similar moving, fluttering or revolving devices shall be permissible for display as signs, except as exempted above as New Hampshire or United States flags.

Projecting Sign that which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

Representational Sign A three-dimensional sign built so as to physically represent the object advertised.

Sign Any material, structure or device, or part thereof, composed of lettered or pictorial matter that is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public. Signs shall include: Any sign defined in this section or otherwise regulated under this ordinance; flags, banners, pennants, streamers, balloons, spinners or similar devices; and any other fixed or portable device or vehicle placed on a parcel of land and used as a sign to convey information to the public. 3-10-98

Sign Directory A listing of two or more business enterprises, consisting of a matrix and sign components.

Sign Structure The supports, uprights, bracing and framework for the sign.

Sign Surface Area The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign and pole covers or architectural embellishments shall be excluded unless the structure is designed in a way to form an integral background for the display. Only one face of a double-faced, free-standing sign shall be included as surface or area of such a sign. In the case of a sign consisting of two (2) or more sides where the angle formed between any two (2) or more sides or the projections thereof exceeds thirty (30) degrees, each side shall be considered a separate sign area . 3-10-92

Temporary Sign A sign having a display duration of no more than thirty (30) days.

Wall Sign A sign that is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

Window Sign A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within two (2) feet of the window, but not including graphics in connection with customary window display of products.

II. PURPOSE OF THE SIGN ORDINANCE

The purpose of this section of the Town of Amherst Zoning Ordinance is to provide for reasonable uniformity in the size, treatment and presentation of signs used to call attention to the existence of a business the existence of a business, activity, product or service. This section recognizes the need to protect public health and safety and

welfare by reducing conflicting, ambiguous and unnecessary information presented through sign messages and structures, while understanding the need for adequate business identification and advertising. The Town does not want signs in any district to detract from the rural character which the Town, through its adopted Master plan, has expressed a strong desire to maintain.

III. GENERAL REGULATION

Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a permit from the Zoning Administrator. Subsequent to this initial application, no permit shall be required for a sign to be repainted or repaired provided that the sign is returned to its original design, condition, placement or presentation.

A. Application Procedure

Applications shall be made in writing to the Zoning Administrator on forms prescribed and provided by the Town and shall contain the applicable information requested on that form and accompanying sign specification sheet.

B. Permit

Upon the filing of a completed application for a sign permit and the payment of the required fee, the Zoning Administrator shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected. If it shall appear that the sign will be in compliance with all the requirements of this local ordinance, he shall then, within thirty (30) days, issue a permit for the erection of the proposed sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the Town or sign master planning provisions.

If the erection of the sign authorized under any such permit has not been completed within two (2) years from the date of issuance, the permit shall become null and void, but may be renewed upon filing of a subsequent completed application and compliance with current requirements.

C. Exempt Signs (require no permit)

The following types of signs may be erected and maintained without permits or fees, providing such signs comply with the general requirements of this local ordinance and other conditions specifically imposed by all other regulations. No two permitted signs may be combined to create a larger sign.

1. Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by governmental agencies, religious or non profit organizations; not exceeding six (6) square feet. Such signs may fall under the regulation of the Historic District Commission and these provisions shall not supersede such requirements.

2. Flags and insignia of any government, except when displayed in connection with commercial promotion.

3. On-premise directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, not exceeding six (6) square feet per face and three (3) feet in height. Not to include any names or logos. (3-14-00)

4. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.

5. Omitted. (3-11-03)

6. Number and name plates identifying residents, mounted on house, apartment or mailbox, not exceeding two (2) square feet in area.

7. Lawn signs identifying residents, with no more than two faces and not exceeding two (2) square feet per face. Such signs are to be non-illuminated except by a light which is an integral part of a lamp post if used as a support, with no advertising message thereon.

8. Private owner merchandise sale signs for garage sales and auctions, not exceeding two (2) square feet for a period not exceeding (14) days during any calendar year. Amended 3-8-94

9. Temporary non-illuminated 'For Sale', 'For Rent', real estate signs and signs of similar nature, concerning the premises upon which the sign is located; in the General Sign District, one sign per lot not exceeding four (4) square feet per side; in the Business Sign District, one sign per lot not exceeding thirty-two (32) square feet setback at least fifteen (15) feet from all property and highway R.O.W. lines. All such signs shall be removed within three (3) days after the sale, lease or rental of the premises. (see Prohibitions, Item 7). Amended 3-8-94

10. Up to two (2) temporary signs for a roadside stand selling agricultural produce in season, providing that such signs do not exceed a total of thirty-two (32) square feet and setback beyond the public right-of-way at least fifteen (15) feet from the edge of the roadway. Amended 3-8-94

11. Temporary, non-illuminated window signs and posters not exceeding sixteen (16) square feet or twenty-five (25) percent of the window surface of a single wall opening on which the sign(s) is displayed. Amended 3-8-94

12. Holiday decorations, including lighting, are exempt from the provisions of this local and may be displayed in any district without a permit.

13. Integral graphics or attached price signs on gasoline pumps at gasoline stations.

14. Decals used to reference authorized services (e.g. credit or bank cards) when not exceeding 144 square inches in total display area per business.

15. Political posters, banners, promotional devices and similar signs, not exceeding four (4) square feet in the General Sign District or sixteen (16) square feet in the Business Sign District, providing:

- a) Placement shall not exceed thirty (30) days, and all signs must be retrieved within three days following the election for which they were used.
- b) The names and addresses of the sponsor and the person responsible for removal are identified on the sign.
- c) No signs are attached to any trees, shrubs, bushes, traffic control devices, historical markers or placed on private property without the consent of the property owner.

16. One "OPEN" sign may be displayed for each separate business unit. Open signs may be displayed during business hours only. Open signs, if illuminated, must be displayed in or on the building, except as provided for in an approved Sign Master Plan. Open signs shall be no more than thirteen (13) inches in height and thirty-two (32) inches in width. No name, logo, or lettering other than the word "OPEN" may be displayed on such signs. (3-14-00)

D. Prohibitions

These prohibitions shall apply to all signs erected in the Town of Amherst, whether exempted or regulated under this section.

- 1. No off-premises signs shall be allowed other than as permitted under the provision of an approved sign master plan.
- 2. No sign shall be illuminated by or contain flashing, intermittent, rotating moving lights except to show time and temperature.

3. No sign shall impair or cause confusion of vehicular pedestrian traffic in its design, color, placement or display characteristics. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within twenty five (25) feet of the intersection of the street or highway lines.
4. No sign shall consist of banners, pennants, ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
3-10-92, 3-14-95 (3-14-00)
5. No advertising message shall be extended over more than one sign placed along a street or highway unless included as an integral part of a sign master plan.
6. No sign shall be placed within the road, street or intersection right-of-way of the Town or State, except as provided for under off-premise directional signs as part of an approved master plan.
7. No sign consisting of the message 'sold', 'Under Contract ' or a similar message, denoting a closed or completed transaction, shall be permitted.
8. No signs shall be attached to fences, trees, utility poles, rocks or other parts of a natural landscape, nor in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.
9. No portable signs shall be allowed in any district. 3-10-92

IV SIGN STANDARDS

A. Temporary Signs

Temporary signs are permitted for display for a period not to exceed 30 days, and not more than two (2) times per year per separated business unit upon application for and receipt of a temporary sign permit from the Zoning Administrator. All signs of a temporary nature, except as otherwise provided by this local ordinance shall be permitted for a period not exceeding two (2) weeks prior to the activity or event nor exceeding four (4) days after the activity or event. Such signs shall not exceed sixteen (16) square feet in Business Sign District nor eight (8) square feet in General Sign District, nor be attached to fences, trees, utility poles, rocks or other parts of a natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.

B. Permanent signs

Within any zoning district, unless otherwise specified, the following permanent signs may be erected, provided however, that this subsection shall not serve to expand the number or area of signs otherwise allowed, and pursuant to the following.

1. SPECIAL CASES

a) A non-illuminated, single-sided real estate development sign, including industrial and commercial development, residential subdivision or construction sign denoting the architect, engineer and/or contractor, not exceeding thirty-two (32) square feet in Business Sign District nor sixteen (16) square feet in General Sign District, may be erected on property being sold, leased or developed. Such sign shall be erected parallel to the fronting highway, setback a minimum of thirty-five (35) feet from the property line or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two (2) years, renewable for an additional two years, upon filing of a subsequent completed application and payment of the appropriate fee.

b) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies, may be erected on the premises of such institutions. One (1) such sign or bulletin board not exceeding twenty-four (24) square feet may be erected.

c) For multiple dwellings or apartment developments, one (1) sign identifying the name of the development, located at the entrance of the development, not exceeding thirty-two (32) square feet.

2. BUSINESS SIGN DISTRICT(I, C, LC, GO on Rt. 101A)

Unless otherwise specified, the following permanent sign provisions shall apply:

a) The area of the freestanding sign permitted on any lot shall be two (2) square feet of sign area per lineal foot of building front, but in no case shall exceed sixty-four (64) square feet, whichever is less, excepting master planned developments. A minimum total sign area of thirty-two (32) square feet shall be permitted any lot regardless of building frontage. (3-11-03)

b) The total number of permitted signs on a single business or industrial lot shall not exceed two (2) of which only one (1) may be free-standing, excepting master planned developments.

c) A lot with approved entrances on two public roads shall be permitted a secondary sign, not on the same public road as the principal sign, provided that such sign does not forty (40) square feet, notwithstanding (a) and (b) above.

d) In addition to the above, one wall sign shall be permitted each separated business unit, not to exceed twenty-five (25) square feet per unit.

3. GENERAL SIGN DISTRICT (RR, NR, NTR,GO)

Unless otherwise specified, the following permanent sign provisions shall apply to non-residential uses:

a) The total number of permitted signs on a single lot shall not exceed two (2) of which only one (1) may be free-standing, excepting master planned developments.

b) The total cumulative area of all signs permitted on such lot shall not exceed twenty-four (24) square feet, excepting wall signs for multiple tenants/units.

c) One wall or projecting sign, not to exceed ten (10) square feet per sign, shall be permitted for each separated business unit in the development.

d) One (1) on-premise sign, either free-standing or attached, in connection with any residential building in any zoning district for permitted professional offices or home occupations, not exceeding six (6) square feet and set back at least fifteen (15) feet from the highway right-of-way. Such sign shall state name, street address and vocation only. Illumination shall not produce a direct glare beyond the limits of the property line and shall be mounted on the sign and directed downward.(3-11-03)

4. NEW BUSINESS SIGNS

A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a temporary sign for a period of not more than thirty (30) days or until installation of a permanent sign, whichever occurs first. Such sign must meet all appropriate construction standards of the Town. A separate temporary sign permit for such a new business sign shall be required.

5. WALL SIGNS

a) Wall signs shall not extend beyond the ends or over the top of the walls to which attached, and shall not extend above the level of the second floor of the building.

b) Wall signs shall not extend more than fifteen (15) inches from the face of the buildings to which attached.

c) Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of seven (7) feet, six (6) inches.

d) Wall signs may be mounted on roofs or eaves as long as they are mounted no more than five (5) feet up from the eaves, provided that the sign height shall not exceed 15 feet when measured from the highest part of the sign to the ground directly below. 3-10-92

6. FREE- STANDING SIGNS

a) No free-standing sign shall be located less than fifteen (15) feet from the curb, edge of pavement or inside of sidewalk, provided the sign is not within the governmental right-of-way and is located on the applicants property. No free-standing sign may be located less than one hundred (100) feet from any other free-standing sign. (3-14-00)

b) If for any reason the property line is changed at some future date, any free-standing sign made non conforming thereby must be relocated within ninety (90) days to conform with the minimum setback requirements to the extent possible.

c) No free-standing sign shall be more than eighty (80) square feet. except as provided for in an approved sign master plan.

d) No free-standing sign shall be more than twelve (12) feet in height above road level. (3-11-03)

e) No free standing sign shall extend over or into the public right-of-way, pedestrian walkway or driveway, nor shall it overhang the property lines.

7. AWNING SIGNS

a) No sign shall project from an awning.

b) Awning graphics may be painted or affixed flat to the surface of the front or sides, shall indicate only the name and/or address of the enterprise or premises.

c) Awning graphics shall be a single line of lettering not exceeding six (6) inches in height, but if over three (3) inches in height, shall be debited against the permitted wall sign surface area.

d) No awning sign shall be internally illuminated.

8. OPEN FLAGS ~~deleted 3-8-94~~

V. EXISTING SIGNS

A. Non-Conforming Signs

In the event of a sign lawfully erected prior to the effective date of this ordinance does not conform to the provisions herein, such shall meet the following specifications:

1. A non-conforming sign shall not be enlarged or replaced by another more non-conforming sign. (3-12-91) 3-10-92
2. No non-conforming sign shall be permitted within a development under a sign master plan.

B. Removal of Signs

Any sign existing on or after the effective date of this ordinance, whether in conformance with this ordinance or not, which no longer advertises an existing business conducted or product sold on the premises upon which such sign is located, shall be removed within fifteen (15) days.

If the Zoning Administrator shall find that any sign regulated in the local ordinance is not used, coded in advertising, is abandoned, unsafe or insecure, or is a menace to the public, the administrator shall give written notice to the named owner of the land upon which it is located, who shall remove or repair the sign within fifteen (15) days from the date of the said time period. The Selectmen shall revoke the permit issued for such sign and may invoke court action. Failure to remove or repair such sign would be considered a violation of this provision.

VI. CONSTRUCTION STANDARDS

This section provides guidance and standards for construction of signs requiring permits and shall serve as guidance for the construction of exempt signs. It identifies the specifications needed so that signs are constructed to ensure the community's safety.

A. General

1. All signs installed after the effective date of this local ordinance shall have attached to the sign a name plate giving the sign permit number and the name and address of the owner, person or corporation responsible for general requirements and maintenance as outlined in this ordinance.
2. All free-standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area.

3. All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not spin or move in any manner. (3-10-92) 3-8-94
4. All signs, sign finishes, supports and electric work shall be kept clean, neatly painted, and free and from all hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys, and anchors.
5. All projecting, free-standing or wall signs shall employ acceptable safety material and shall not constitute a hazard to pedestrian travel or the general public.
6. All signs shall be painted/fabricated in accordance with generally accepted standards.
7. All signs shall be in accordance with the BOCA Code and shall not conflict with the Manual on Uniform Traffic Control Devices for Streets and Highways (USDOT/FHWA) or the Life Safety Code (NFPA101). All electrical wiring of signs shall conform to the National Electrical Code. (NFPA-70)
8. Underground wiring shall conform to the National Electrical Code. (NFPA-70)

VII. DESIGN GUIDELINES FOR SIGN MASTER PLANS

Where groups of three (3) or more contiguous commercial or industrial units are to be located together in a development, where a lesser number of businesses total not less than twenty thousand (20,000) square feet of gross leasable area, or where three (3) or more individual businesses on contiguous lots so elect, the development may adopt a Sign Master Plan to govern advertising. The intent of this section is to promote a uniform and aesthetic message presentation that is designed to provide information to the general public through its design and coordination of elements.

The development of a sign master plan shall be governed by the specifications of this section and generally reflect the requirements of the applicable sign district. Application of the sign master planning provisions should not detract from the rural character which the Town, through its adopted Master Plan, has expressed a strong desire to maintain. 3-10-92

A. General Requirements

Total sign area permitted for the entire development or center shall be calculated at the rate of two (2) square feet of sign per foot of lineal building front. Each master planned development may have one common free-standing sign denoting the name of the facility not exceeding eighty (80) square feet per side and with bottom panel not less than five (5) feet above road level and a maximum height of fifteen (15) feet. All other signs shall be attached to buildings, a wall, projecting or soffit type, and coordinated in

material, shape, lettering, color and/or decorative elements. Information and directional signage, with the exception of uniform traffic control devices, shall be consistent with the general sign design of the development and is exempt from the sign area calculation provided that it does not contain advertising.

1. Signs shall be designed to be compatible with the surrounding and appropriate to the architectural character of the building on which they are placed. Sign panels and graphics should relate with and not cover architectural features, and should be in proportion to them.

2. Signs should be appropriate to the types of activities they represent.

3. Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.

4. The number of colors used should be the minimum consistent with the design and must provide a reference or relationship to the enterprise or activity being advertised.

5. Illumination should be appropriate to the character of the sign and surrounding and shall bear a relationship to the operating hours of the enterprise or activity being advertised. Illumination of signs permitted only from one (1) hour before opening until one (1) hour after closing.

6. Groups of related signs shall express uniformity, create a harmonious appearance, and provide a visual and aesthetic coordination of the information presented to the public.

7. Height and physical placement shall be consistent throughout the master planned area.

8. The sign master plan, including a site plan, shall be approved by the Planning Board, at a public hearing, and detail placement, design, color coordination, visibility, information messages and compatibility with the general design of the development.

9. Off-premises directional signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service or community facility operating within the Town of Amherst may be erected as part of the sign Master plan, providing such signs do not exceed four (4) square feet per sign nor total more than two (2) such signs per development. Messages shall be limited to name or identification, arrow or direction, and distance. Advertising messages shall be prohibited.

Off-premise directional signs shall be classified as free-standing sign shall not be placed within 100 feet of another free-standing sign. Illumination is prohibited.

Such signs shall be limited to Major Arterial and Minor Arterial roads as defined in the 1988 Functional Classification System for Amherst Street Network published in

the Town-Wide Transportation Master plan. Such signs may be permitted on Collector streets, as defined in the same classification system, within the Business Sign District.

Sign panels may be made of any conventional weather resistant and rigid sign material acceptable to the Town of Amherst Planning Board. They shall be fully reflectorized and shall be similar to 'Engineering Grade' reflective sheeting with respect to color (day and night), brightness, reflectivity and durability as specified in the latest edition of the Manual on Traffic Control Devices for Streets and Highways.

The panel shall have white legend on a blue background with a 1/2 inch white border. The legend shall be white and 4-inch minimum 'Highway Type' letters, except that nationally, regionally or locally known commercial symbols or trademarks, in their customary colors, may be used when applicable. Sign colors may be coordinated with the development master plan color scheme provided that such a display does not conflict with standardized traffic control devices and is specifically approved by the Planning Board. Nationally recognized approved symbols for services may be incorporated as alternates to word messages. All off-premise sign legends are subject to approval by the Town of Amherst Planning Board and sign placement and installation shall be approved by the Director of Public Works.

VIII. ADMINISTRATION

A. Review and Appeals

Any person aggrieved by a decision of the Zoning Administrator relative to the provisions of this local ordinance may appeal such decision, in writing, to the Board of Appeals as provided in the Zoning Regulations and shall comply with all procedural requirements prescribed by such board.

In granting any variance from the provisions of this ordinance, the Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with general purposes and intent of this ordinance, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in unnecessary hardship to the applicant.

B. Violations and Penalties

Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who, in any other way, violates any provision of this local ordinance shall be guilty of an offense and receive punishment as established in the RSA's. Each day's continuous violation shall constitute a separate additional violation.

In case of a violation of this local ordinance, the Town and its officers may, in addition to any other remedies specifically conferred by ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this ordinance. 3-12-91

Any sign, permitted or not, placed within any public or private right-of-way or placed so as to impede public access, shall be considered to be a threat to public safety and may be removed at the direction of the public safety officers or Zoning Officials.

IX. INTERNALLY ILLUMINATED SIGNS

A. Purpose

The purpose of this ordinance is to permit the installation and operation of internally illuminated signs within the Town of Amherst, recognizing their value in providing information to the general public and an aid in the advertising of businesses.

B. General Provisions

1. Internally illuminated signs shall be permitted in the Business Sign District within the Town of Amherst only when incorporated as an integral part of an approved sign master plan.
2. The total area of internally illuminated signage shall not exceed twenty-five (25%) percent of the permitted sign area for the master planned development.
3. Internally illuminated signs shall conform to all other applicable provisions of the Town of Amherst sign regulations with respect to design, placement, presentation and other regulated features.
4. Only one internally illuminated sign shall be permitted per physically separated business unit and shall replace another otherwise permitted sign.
5. One free-standing internally illuminated sign shall be permitted per development and shall be equal in all other regulated aspects to the free-standing sign it shall replace excepting for the illuminated area limitation of twenty-five (25%) percent as in provision (2) above.
6. The area of the internally illuminated sign shall not exceed the area of the sign it shall replace for the business or development.
7. No internally illuminated sign may be erected within three hundred (300) feet of any residential zone within the Town. 3-12-91

8. No internally illuminated sign erected as part of a sign master plan may be illuminated until the full master plan is implemented, unless a phasing plan is approved by the Board.

Section 3-5 Off-Street Parking Requirement

A. The following parking spaces shall be provided and maintained by the owner/developer of a property for each proposed new or altered building, or other uses which may not include buildings or structures. (3-12-63/3-9-82) 3-11-86

1. Residential use - 2 per unit
2. Commercial use:

Offices - 4 per 1000 square feet gross floor area
Retail - 5 per 1000 square feet gross floor area
Shopping Center - 6 per 1000 square feet gross floor area
Restaurant - .5 per seat + .3 per employee
Hotels, motels - 1 per rented room

3. Industrial use - 1 per 600 square feet manufacturing area
4. Auditorium, theater - .3 per seat
5. Church - .3 per seat
6. College/University - .5 per student + 1 per staff
7. Senior high school - .3 per student + 1 per staff
8. Elementary & Junior high school - 1 per classroom and 1 per staff
9. Hospital - 1.5 per bed. 3-11-86

B. All parking spaces shall be on the same lot with the proposed building or use or on a lot within 500 feet of the proposed building or use. (3-12-63) 3-11-86

C. Parking space requirements not specifically mentioned in this Ordinance shall be determined by the Planning Board in the exercise of the authority granted to it pursuant to site review regulations. (3-12-63) 3-9-82

Section 3-6 Mobile Homes and Trailers

The use as a permanent residence of a house trailer or a mobile home is permitted in all zones of the Town which permit residential uses, and within and subject to the criteria of a Planned Residential Development, and subject to SECTION G, WATER POLLUTION CONTROL REGULATION for the TOWN OF AMHERST. (3-10-64/3-10-87) 3-8-88 (3-11-03)

Travel Trailers, as determined by the State Tax Commission, may be stored unoccupied in all zones of the Town. 3-12-64

Section 3-7 Building Regulations

No building or structure shall be erected, unless in compliance with the following:
3-14-67

- A. See separate BOCA Building Code. (3-10-98)
- B. On all new buildings, construction must be at least 75% complete before occupied as a dwelling, as determined by the Administrative Official. (As amended 3-11-80) 3-14-89
- C. No building permit for a new dwelling shall be issued unless it meets State mandated minimum size requirements.(As amended 3-11-80/ 3-11-86)
3-12-91

Section 3-8 Earth Material Removal

A. Authority

Clay, loam, sand, gravel, minerals, and similar earth materials may be removed for either private use, or for sale from any lot parcel of land in any zoning district, except the Historic District and Wetlands Conservation District, only after special permit for such operation has been issued by the Zoning Administrator, in accordance with the provisions of this section. (3-4-75) 11-2-82

B. Application

No Earth Material Removal permit shall be issued unless application is made in writing on the forms provided for this purpose by the Town and accompanied by the payment of a fee in such amount as the Board of Selectmen may determine from time to time. The application form shall be accompanied by a plan which describes the proposed Earth Material Removal operation. 3-4-75

C. Procedure

Prior to the approval or denial of an Earth Material Removal permit application, the Selectmen or their agent, shall hold a public hearing. The applicant and all abutters within five hundred (500) feet of the parcel or parcels proposed to have earth material removed, shall be notified of the time and place of such hearing, not less than five (5) days prior to the date affixed for said hearing. 3-4-75

In order to ensure the applicant's performance in adherence with these regulations, the applicant shall post a bond with the Town of Amherst in such amount as the Board of Selectmen may determine from time to time. Such bond shall not be less than five hundred dollars (\$500) per acre and shall be posted prior to the issuance of said permit.
3-4-75

During the period of the permit, the Zoning Administrator shall conduct on-site inspections of the earth material removal operation plan. Not less than sixty (60) days prior to the expiration of the permit, the Zoning Administrator shall conduct a compliance review. This review shall indicate what action is necessary by the operator to: 3-4-75

1. Close out the operation within the permit period in conformance with the plan, or 3-4-75
2. Be eligible to apply for a renewal of the Earth Material Removal Permit. 3-4-75

If the operator requests a renewal of his permit, the new application together with an amended operation plan shall be submitted at least forty-five (45) days prior to the expiration of the current permit. 3-4-75

If, at the expiration of the permit, the operator has failed to carry out the reclamation of the site as required by this Ordinance in conformance with the operation plan and permit, the bond posted by the operator shall be forfeited and the proceeds used to carry out the reclamation of the site. If the reclamation is performed in accordance with the operation plan, the bond shall be returned to the operator upon establishment of the cover crop for two (2) full growing seasons or earlier upon certification of the Hillsborough County Conservation District. 3-4-75

D. Standards

All work executed under an Earth Material Removal Permit shall conform to the following standards:

1. No excavation shall occur within fifty (50) feet of any property line, road right-of-way or zoning district boundary in which district earth material removal is not permitted and the natural vegetation shall be retained in this buffer area. 3-4-75
2. All finished grades shall in no case be steeper than (2:1 horizontal/vertical) slope. 3-4-75
3. No land shall be excavated below the seasonal high water table except as part of a plan to develop water conservation or recreational uses. This plan must be submitted at the time of application together with a written review of the plan conducted by the Hillsborough County Conservation District. 3-4-75
4. The excavation shall proceed in a manner which will not allow it to hold standing surface water in excess of two (2) inches in depth except as approved as part of a surface water absorption system designed to minimize surface water runoff. 3-4-75

5. Upon completion of all excavation, the entire site shall be re-spread with loam to a depth of four (4) inches or the average depth of loam prior to the commencement of excavation, whichever is less. Loam sufficient to meet this requirement shall be stockpiled on the excavation site. 3-4-75

6. Unless a special waiver is granted at the time the permit is issued, the land area disturbed by the operation and in an unrestored condition shall not exceed a total of five (5) acres at any one time. 3-4-75

7. When the removal of material is completed, the finished grades, as specified in the approved plan shall have a permanent cover crop established, except when ledge rock is exposed, to assure adequate drainage and prevent erosion. 3-4-75

8. All excavating, handling, processing, and storage facilities shall be removed, the land cleared of all stumps, logs, brush, and rocks, the final grades indicated on the plan established and the site reclaimed prior to the expiration of the Earth Material Removal Permit unless application has been made and approval granted for the renewal of the permit. 3-4-75

9. All earth material removal operations shall be maintained in a safe condition at all times. No overhanging banking, potential earth slides, or any other unsafe condition shall be permitted at any time. 3-4-75

E. Exceptions

The removal of loam, sand, gravel, clay, and other similar materials from a site shall require an earth removal permit. The following activities conducted on a lot or site shall not require an earth material removal permit:

1. The removal of less than two hundred (200) cubic yards of material.
(3-4-75) 11-2-82 (3-11-03)

Section 3-9 Reduced Frontage Lots

No building permit shall be issued for any structure on any lot within any subdivision approved subsequent to March 4, 1975 which includes any streets, driveways, or highways associated with reduced frontage lots unless such private driveways shall have been constructed in a fashion consistent with the requirements of the Town of Amherst subdivision regulations as adopted from time to time by the Town of Amherst Planning Board dealing with construction requirements and specifications for private driveways. 3-10-87

NOTE: See Town of Amherst Subdivision Regulations, Section 5-2. (3-4-75) 5-1-82

Section 3-10 Use Group Classifications

A classification system is necessary in order that appropriate fire, health, building regulations can be recognized and applied to proposed new structures or those to be altered.

A. Scope The provisions of this section shall control the classification of all buildings and structures as to use groups.

B. The provisions of this section shall not be deemed to nullify any provisions of the Zoning Ordinance.

C. General All buildings and structures shall be classified with respect to use in one of the use groups listed below and such existing or proposed use shall be specified on the application for permit.

1. Use Group A. Assembly
2. Use Group B. Business
3. Use Group E. Educational
4. Use Group F. Factory and Industrial
5. Use Group H. High Hazard
6. Use Group I. Institutional
7. Use Group M. Mercantile
8. Use Group R. Residential
9. Use Group S. Storage
10. Use Group U. Utility and miscellaneous.

D. Doubtful use classification When a building or structure is proposed for a use not specifically provided for, the use classification shall be in the use group which it most nearly resembles, and the building or structure shall meet the health and safety requirements of that group.

E. Mixed uses and occupancy When a building is proposed to be occupied for two or more uses, the provision of associated codes securing the greater public health and safety shall be applied.

F. Incidental uses Where the use is supplemental to the main use of the building and the area devoted to such use does not occupy more than ten percent (10%) of the floor area, the building shall be classified according to the main use. 3-8-88

Section 3-11 Scenic Setbacks

A. Purpose The purpose of this section is to preserve and enhance the rural, open character of the Town as viewed from the main roads leading through the Town and scenic roads within the Town and to prevent unsightly development along these routes.

B. Regulations To accomplish the purpose of this section, a setback requirement for all structures of one hundred (100) feet from the highway right-of-way is established on the following roads, and said setbacks shall apply notwithstanding any other set-back requirements which may be applicable as a result of other zone regulations: 3-2-76

1. Rte 122 from Hollis Town line north to Old Rte 101, Horace Greeley Highway. (3-14-00)
2. Boston Post Rd from Stearns Rd north to Route 122
3. Boston Post Rd from Beaver Brook north to Mt. Vernon Rd.
4. Mt. Vernon Rd from Boston Post Rd north to Mt. Vernon Town line
5. Amherst Street (3-9-99) (3-14-00)
6. Horace Greeley Highway from Milford Town line north to Bedford Town line. (3-9-99)
7. New Boston Rd from Boston Post Rd north to Mt. Vernon Town line
8. Christian Hill Rd from Davis Lane to Route 13
9. Corduroy Rd from Merrimack Rd north to Boston Post Rd..
10. Merrimack Rd from Boston Post Rd north to Corduroy Rd.
11. Mack Hill Rd from Manchester Rd north to Austin Rd.
12. All scenic Roads (see Section E) 3-2-76

C. Exceptions to Scenic Setback Requirements

1. Any person aggrieved by the operation of this section may apply to the Board of Adjustment for a variance here from in like manner as in other situations where the existence of a hardship is alleged. 3-2-76

2. In the event that a lot of record, at time of passage of this section, is of such size and dimension that the application of the foregoing setback in combination with all other setbacks as may be required for such lot precludes the use of more than sixty percent (60%) of the area of such lot, then the foregoing one hundred (100) foot setback shall not apply to such lot; however, if a lot qualifies for this exception and is also subject to Non-Residential Site Plan Review by the Planning Board, the Planning Board shall determine that appropriate provision has been provision has been provided so as to reasonably achieve the purpose of this section as set forth in Paragraph A above. 3-2-76

3. The regulations set forth herein, are intended to apply only to the construction of new structures which takes place on and after the effective date of this section. Any dwelling or other structure which was in existence at the time of passage of this section, may be enlarged, modified, or otherwise altered without the necessity of complying with the requirements of this section, provided that such alterations do not reduce the setback from the front lot line to an amount less than the setback which exists on the building to be altered. Provided further, however, that such construction or alterations must comply with any other setback requirements applicable in the respective zones other than the scenic setback. (3-2-76) 3-9-82

Section 3-12 Farming

Intent: In keeping with the goals of the Master Plan, a Right to Farm Ordinance is hereby written to encourage and protect farms and farming in the Town of Amherst. In order to protect the existing farms in the Town of Amherst and to encourage others who might want to farm, it is recognized that “the right to farm” is a natural right and is allowed to exist as a permitted use in the Town of Amherst and State Health and Sanitary Codes for intensive fowl and livestock farms.

The right to farm as used in this Ordinance includes use of necessary equipment, farm machines, farm labors, application of fertilizers etc., for the purpose of producing agricultural products such as vegetables, grains, hay, fruit, trees, plants, etc. The right to farm shall also include the right to use land for grazing by animals and raising of livestock and fowl, when conducted in accordance with generally accepted agricultural practices and may take place on holidays, Sundays, weekends, night and day. (3-13-84)

Two (2) signs totaling twelve (12) square feet are permitted for farm stands.

Section 3-13 Dish Antennae

Purpose: To provide for the safe and aesthetically pleasing installation of dish antennae in the Town of Amherst.

Standards

1. These standards shall apply to antennae of four (4) feet in diameter or greater.
2. Only one antenna shall be allowed for each lot.
3. Antennae shall be placed at least one hundred (100) feet back from front property line and shall meet the setback requirements for the particular zone in which it is located.
4. All antennae shall be securely mounted to the ground and shall not be placed on any vehicle or other movable structure.
5. The antennae shall be visually screened from the roadway and adjoining property by the use of vegetation to the maximum extent possible without impairing efficiency so that said screening is effective year-round.
6. No portion of the antenna may exceed fifteen (15) feet in height from the natural ground level.

7. Must be painted matte black or earth tones to blend with surrounding vegetation. 3-11-86

Section 3-14 Transfer of Development Rights (deleted 3-11-93)

Section 3-15 Home Occupations (3-14-95)

I. Definitions - see Section 9-1.

II. Purpose and Authority

This section of the Town of Amherst Ordinance provides for non-retail commercial and professional office uses in single and multi-family residential dwellings in the Residential/Rural, Northern Rural, Northern Transitional Zones. The intent of the Ordinance is to allow business enterprises and professional occupations in private homes, provided that they are consistent with other neighborhood development and conform to Town health regulations and meet life safety standards. The activities associated with home occupations are not to detract from the rural character of the Town nor shall they create traffic, environmental or aesthetic impacts substantially different than the impacts created by other permitted uses in the neighborhood.

III. General Regulation

A. Permits Required

Except as otherwise provided for in this Ordinance, no person shall engage in ongoing business or professional activities in any private dwelling in the Residential/Rural, Northern Rural, Northern Transitional Zones, without first obtaining a permit from the Zoning Administrator. No permit shall be required for a duly registered home occupation in existence as of the date of this section until January 1, 1997. Application shall be made in writing to the Zoning Administrator and shall contain all the applicable information requested on the application form. Home Occupation permits and the uses provided for therein, shall automatically terminate five years after the date of issuance but shall be renewed by the Town provided that the dwelling owner shall certify that the use is in compliance with this Ordinance. Home Occupation permits are transferable only as provided for in E.6.

B. Use Restrictions

Home occupations are limited to those business and professional activities and uses compatible with dwelling units in residential areas of Town, which are conducted by and for the benefit of the residents of the dwelling unit. Home Occupation uses shall not include the following:

1. Any of the permitted uses listed in Sections 4-7, 4-8, or 4-9 of this Ordinance, except corporate, business or professional offices in accordance with 3 below of this paragraph and the General Provisions in paragraph C; or, (3-11-03)

2. Any production or manufacturing activities that requires federal or state licenses or operating permits under applicable health, environmental, transportation or commercial codes; or,
3. Any use that generates, stores or uses regulated hazardous substances, receives or ships hazardous materials regulated under Chapter 49 - Code of Federal Regulations, or that generates or disposes of hazardous waste as regulated under Chapter 40 -Code of Federal Regulations.

C. General Provisions

1. The home occupation shall occupy no more than 20% of the existing, gross heated floor area of the primary residence or the structure in which the home is operated, up to a maximum of 1,000 square feet.
2. Not more than two non-resident full time or part time employees shall be allowed.
3. No outdoor display advertising or storage of any products, materials or vehicles associated with the home occupation shall be allowed.
4. One non-illuminated sign not to exceed six square feet per side, may be displayed.
5. No emissions of dust, fumes, smoke, noise, vibration, light or water, attributable to the home occupation, shall be allowed across the property line.
6. Hours of outside operation are 8:00 a.m. to 6:00 p.m., Monday thru Saturday.
7. A home occupation may generate no more than 20 trips per day in business related traffic.

D. Special Provisions

1. Any Bed & Breakfast operated under this section of the Ordinance shall be limited to a maximum of five bedrooms for guest use.
2. The site must accommodate parcel pick-up and delivery with facilities for drop-off storage.

Section 3-16

Personal Wireless Service Facilities

(adopted 3-9-99)

1. PURPOSE AND INTENT

It is the express purpose of this Article to permit carriers to locate personal wireless service facilities within particular areas of the Town of Amherst consistent with appropriate land use regulations that will ensure compatibility with the visual and environmental features of the Town. Compatibility with the visual features of Amherst is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facilities. This Article enables the review of the locating and siting of personal wireless service facilities by the Town of Amherst so as to eliminate or mitigate the visual and environmental impacts of personal wireless service facilities. This Article is structured to encourage carriers to locate on existing buildings and structures whenever possible. New ground mounted personal wireless facilities are permitted, but only when the use of existing structures and buildings is found to be infeasible. Co-location is encouraged for all personal wireless service facility applications and the review of a personal wireless facility shall be on the basis of the site being built using all positions on the mount.

2. APPLICABILITY

The terms of this Article and the Site Plan Review Regulations shall apply to personal wireless services facilities proposed to be located on property owned by the Town of Amherst, on privately owned property, and on property that is owned by any other governmental entity that acts in its proprietary capacity to lease such property to a carrier.

3. DEFINITIONS

For the purpose of this Article, the following terms shall have the meaning given herein:

3.1 Antenna. The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

3.2 Antenna Array. A collection of antennas attached to mount to send and receive radio signals.

3.3 Average Tree Canopy Height. An average height found by inventorying the height at above ground level (AGL) of all trees over twenty (20) feet in height for a defined area. The AGL shall be calculated on the trees within a radius of fifty (50) feet from the proposed Tower, (trees to be removed at tower site cannot be used in calculations.) (3/13/01)

3.4 Camouflaged. A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure. All paint shall be flat to avoid any reflection. (3/13/01)

3.5 Carrier. A Company that provides personal wireless services also sometimes referred to as a provider.

3.6 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

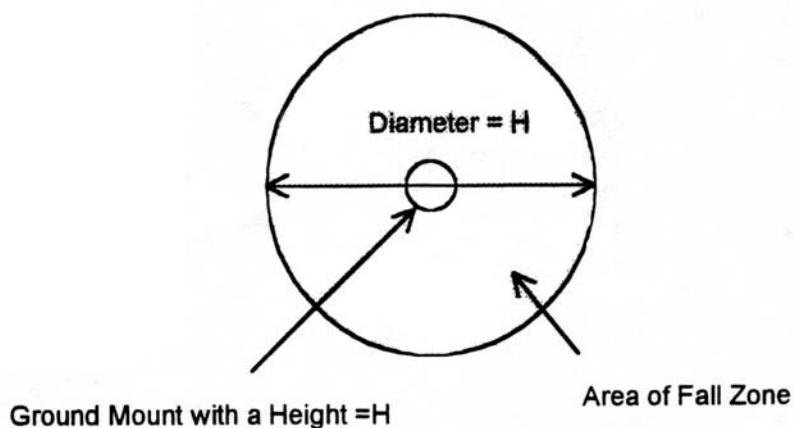
3.7 Environmental Assessment (EA). An EA is a document required by the Federal Communications Commission (FCC) and the national Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

3.8 Equipment Shelter. An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

3.9 Facility. See Personal Wireless Service Facility.

3.10 Fall Zone. The area on the ground from the base of a ground mounted personal wireless service facility that forms a circle with a diameter equal to the height of the facility, including any antennas or other appurtenances, as set forth in Figure 1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material. Fall zones may overlap.

Figure 1



3.11 Guyed Tower. A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

3.12 Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

3.13 Lattice Tower. A type of mount with multiple legs and structural cross bracing between the legs that is self supporting and free-standing.

3.14 Mast. A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

3.15 Monopole. A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

3.16 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

Roof-mounted. Mounted on the roof of a building.

Side-mounted. Mounted on the side of a building.

Ground-mounted. Mounted on the ground.

Structure-mounted. Mounted on a structure other than a building.

3.17 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment.

3.18 Personal Wireless Services. The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

3.19 Radio Frequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

3.20 Radio Frequency Radiation (RFR). The emissions from personal wireless service facilities.

3.21 Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

3.22 Separation. The distance between one carrier's array of antennas and another carrier's array.

4. DISTRICT REGULATIONS

4.1 Location – Personal wireless service facilities shall be permitted in all Zoning Districts. Applicants seeking approval for personal wireless service facilities shall first evaluate existing structures for the siting of personal wireless service facilities. Only after finding that there are no suitable existing structures pursuant to Section 4.3 herein, shall a provider propose a new ground mounted facility.

4.2 Existing Structures: Policy – Personal Wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles or towers, and related facilities, provided that such installation preserves the character and integrity of those structures.

4.3 Existing Structures: Burden of Proof – The applicant shall have the burden of proving that there are no existing structures which are suitable to locate its personal wireless service facility and/or transmit or receive radio signals. To meet that burden, the applicant shall take all the following actions to the extent applicable:

VIII. The applicant shall submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a personal wireless service facility. If the Planning informs the applicant that additional existing structures may be satisfactory, the applicant shall contact the property owner(s) of those structures.

IX. The applicant shall provide copies of all letters of inquiry made to owners of existing structures and letters of rejection. If letters of rejections are not provided, at a minimum, unanswered “Return Receipt Requested” forms from the U.S. Post Office shall be provided for each owner of existing structures that was contacted.

X. If the applicant claims that a structure is not capable of physically supporting a personal wireless service facility, this claim must be certified by a licensed professional civil engineer. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the personal wireless service facility without unreasonable costs. The estimated cost shall be provided to the Planning Board.

a. Ground Mounted Facilities: Policy – If the applicant demonstrates that it is not feasible to locate on an existing structure, ground mounted personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees.

5. USE REGULATIONS

A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

- A. Existing Tower Structures: Subject to the issuance of a building permit that includes review by the Planning Board, which review shall be limited to issues relating to access, bonding, and security for removal, structural integrity and appropriate camouflage of such siting, carriers may located a personal wireless service facility on any guyed tower, lattice tower, mast, or monopole in existence prior to the adoption of this Article, or on any personal wireless service facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan. All the Performance Standards from this Article shall be met. This provision shall apply only so long as the height of the mount is not increased, a security barrier already exists, and the area of the security barrier is not increased. Otherwise, site plan review is required.
- B. Reconstruction of Existing Tower Structures: An existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed with a maximum twenty (20) foot increase in height so as to maximize co-location so long as the standards of this Article are met and so long as this twenty (20) foot increase in height does not cause a facility previously existing at less than two hundred (200) feet to exceed two hundred (200) feet in height. The mount shall be replaced with a similar mount that does not significantly increase the visual impact on the community. Site Plan review is required.
- C. Existing Structures: Subject to the provisions of this Article and minor site plan review under RSA 674:43:III and except as otherwise permitted under Section 5 (A), a carrier may locate a personal wireless service facility on an existing structure, building, utility tower or pole, or water tower. For the purpose of this section, new structures that are conforming to all other district zoning requirements shall be considered as existing structures.
- D. Ground Mounted Facility: A personal wireless service facility involving construction of a ground mount shall require site plan review and be subject to the provisions of this Article.

6. DIMENSIONAL REQUIREMENTS

6.1 Personal wireless service facilities shall comply with the following requirements:

- A. Height, Maximum: In no case shall a personal wireless service facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in height prior to the adoption of this Article.
- B. Height, Existing Structures and Utility Poles: Carriers that locate new personal wireless service facilities on water towers, electric transmission

and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than twenty (20) feet, or 40 feet at the discretion of the Planning Board, if the additional height will not materially impair the visual impacts of the site. This increase in height shall only be permitted once for each structure.

- C. Height, Other Existing Structures: The height of a personal wireless service facility shall not increase the height of a structure by more than fifteen (15) feet, unless the facility is completely camouflaged; for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured. A carrier may locate a personal wireless service facility on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.
- D. Height, Ground-Mounted Facilities: Ground-mounted personal wireless service facilities shall not project higher than (20) twenty feet above the average tree canopy height within a one hundred and fifty (150) foot radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
- E. Setbacks: All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located if the fence is six (6) feet or more in height, in accordance with the appropriate Zoning Ordinances.
- F. Fall Zone for Ground Mounts: In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. (Multiple fall zones may overlap) (3-13-01)
- G. Fall Zone for Non-Ground Mounts: In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities.

6.2 Planning Board Flexibility: heights – In reviewing a site plan application for a personal wireless service facility, the Planning Board may permit an increase in the height of a ground mounted facility up to forty (40) feet above the average tree canopy height, if no material increase in visual or environmental impacts will result from the increased height. The visual and environmental criteria of this Article and the Site Plan Review Regulations shall be the guidelines in making this determination.

7. PERFORMANCE AND DESIGN STANDARDS

7.1 Visibility

A. Visual impacts are measured on the basis of:

1. Change in community scale, as exhibited in relative height, mass or proportion of the personal wireless service facility within their proposed surroundings.
2. New visible elements proposed on a contrasting background.
3. Different colors and textures proposed against a contrasting background.
4. Use of materials that are foreign to the existing built environment.

B. Enhancements are measured on the basis of:

1. Conservation of opportunities to maintain community scale, e.g. buffering areas and low-lying buildings should not be compromised so as to start a trend away from the existing community scale.
2. Amount and type of landscaping and/or natural vegetation.
3. Preservation of view corridors, vistas, and view sheds.
4. Continuation of existing colors, textures, and materials.

C. Visibility focuses on:

1. Eliminating or mitigating visual impact.
2. Protecting, continuing, and enhancing the existing environment.

D. Camouflage for Facilities on Existing Buildings or Structures – Roof Mounts:

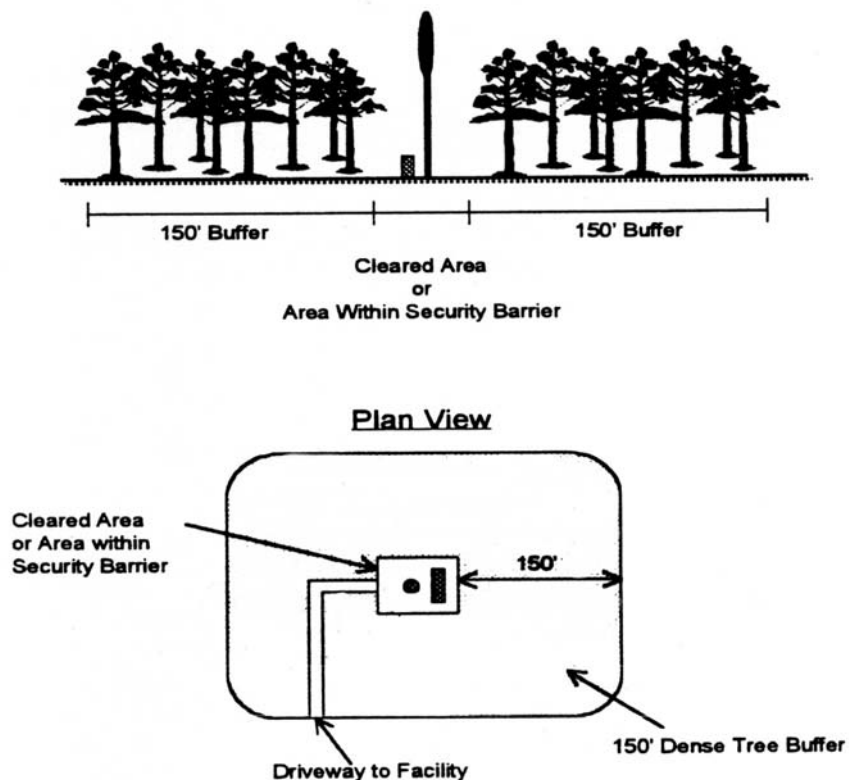
When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.

E. Camouflage for Facilities on Existing Buildings or Structures – Side Mounts:

Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if individual antenna panels are over five (5) square feet, the panels shall be painted or shielded with material consistent with the design and materials of the building.

F. Camouflage for Ground Mounted Facilities:

All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, and screens views of the facility in all directions, as set forth in Figure 2. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site. The Planning Board shall have the authority to decrease, relocate, or alter the required buffer based on site conditions. The one hundred and fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the carrier's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.



7.2 Color: To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be of a color which blends with the background or surroundings.

7.3 Equipment Shelters – Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

- A. Equipment shelters shall be located in underground vaults; or
- B. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the personal wireless service facility; or
- C. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- D. If mounted on a roof top, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be part of the original structure.

7.4 Lighting, Signage, and Security

- A. Lighting: The mounts or personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot candles.
- B. Signage: Signs shall be limited to those needed to identify the property and the owners and warn of any danger. All signs shall comply with the requirements of the Article III, Section 3-4 of the Amherst Zoning Ordinance.
- C. Security Barrier: The Planning Board shall have final authority on whether a ground mounted personal wireless service facilities should be surrounded by a security barrier.

7.5 Historic Buildings and Districts

- A. Any personal wireless service facility located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

B. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.

C. Personal wireless service facilities authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

D. Personal wireless service facilities located in the Amherst Village Historic District shall comply with the provisions of the Historic District Commission.

7.6 Scenic Landscapes and Vistas – Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties. All ground-mounted personal wireless service facilities shall be surrounded by a buffer of dense tree growth as per Section 7.1 (F).

7.7 Driveways – If available, existing entrances and driveways to serve a personal wireless service facility shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impact. New driveways to serve a personal wireless service facility shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.

7.8 Antenna Types – Any antenna array placed upon an existing or proposed ground mount, utility pole or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

7.9 Ground and Roof Mounts – All ground mounts shall be of a mast type mount. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction project permitted under Section 5 (B).

7.10 Hazardous Waste – No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred & ten percent (110%) of the volume of the hazardous materials stored or used on the site.

7.11 Noise – personal wireless service facilities shall not generate noise in excess of that permitted under the Amherst Noise Ordinance.

7.12 Radio Frequency Radiation (RFR) Standards – All equipment proposed for personal wireless service facility shall be fully compliant with the FCC Guidelines for Evaluating and Environmental Effects of Radio frequency Radiation (FCC Guidelines), under Report and Order, FCC 96-326, published on August 1, 1996, and all subsequent amendments.

8. MONITORING AND MAINTENANCE

8.1 Maintenance – The owner of the facility shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

8.2 Monitoring – As part of the issuance of the site plan approval or building permit, the property owner shall agree that the Town of Amherst may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The Town shall provide reasonable written notice to the carrier and landowner and provides them the opportunity to accompany the Town representatives when the measurements are conducted.

8.3 Security for Removal – Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 9.2. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%), provided by the applicant and certified by a professional structural engineer licensed in New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional structural engineer licensed in New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

9. ABANDONMENT OR DISCONTINUATION OF USE

9.1. Notification – At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

9.2. Removal – Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- A. Removal of antennas, mount, equipment shelters and security barriers from the subject property.

- B. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- C. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

9.3 Failure to Remove – If the owner of the facility does not remove the facility upon the Zoning Administrator's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

Section 3-17 Equestrian Facilities and Events (adopted 3-10-98)

INTENT OF THE ORDINANCE

The Town of Amherst recognizes that equestrian activities and facilities are an integral part of the history and rural character of the town and, as such, can contribute to achieving the goals of the Master Plan. Through the preservation of open space and agricultural practices, the commercial elements of such ventures are of value to the entire community by providing recreational, competitive and other opportunities for public benefit.

The intent of this ordinance is to allow the development of private equestrian facilities and events in the residential zones of the Town of Amherst, while seeking to preserve the rural character of the Town. The provisions of this ordinance are further intended to limit the impact of these commercial ventures on public health, safety and welfare by the establishment of minimum standards and by requiring a review of the design, operating procedures and control of impacts. The ordinance seeks to promote the health, safety and welfare of rider and animal, as well as the public.

1.0 DEFINITIONS

1.1 *Equestrian Facility*: A private facility with limited and/or occasional availability to the public; primarily for the boarding, training, breeding, sale, riding and maintenance of horses, ponies and other equids, with or without instruction for the rider.

1.2 *Equestrian Events*: Any event of more than 30 participants per day involving horses and/or other animals which are on display or engaged in competition and organized and managed in accordance with the provision of a sanctioning state or national organization.

1.3 *Riding Lessons:* Any lesson or activity with limited availability to the public involving the riding, training or care of horses, whether saddled or otherwise, and including the training or instruction of riders or drivers.

2.0 GENERAL PROVISIONS

2.1 *Applicability:* The provisions of this ordinance apply to all lessons or events involving horses that are open or available to the general public, regardless of whether there is a fee charged. Activities covered under this ordinance are allowed in all zones in the Town of Amherst. These provisions do not apply to the private ownership of horses or other farm animals not available for public use.

The ordinance shall be construed to cover and define uses permitted to equidae as a whole and not to limit permitted uses and activities to a size animal or a species or sub-species.

Allowable uses and activities involve the interaction between horses and humans and can be instructional, competitive, recreational, therapeutic, training, exercise, conditioning, or as otherwise approved by the Planning Board.

2.2 *Prohibited Uses:* Activities, operations or events for the purpose of livestock auctions, commercial horse sales, the sale of transport equipment and vehicles, the manufacture or sale of feed and animal hospitals are not allowable uses permitted under this ordinance.

Outdoor lighting for night-time use of arenas, tracks and like training or competition areas is prohibited.

2.3 *Equestrian Event Management:* Equestrian events consist of horse shows, trials or competitions open to the general public. All events shall be conducted under the rules or other provision of an applicable sanctioning state or national organization. Prior to conducting such events, the owner of the property shall apply for and obtain approval under the Non-Residential Site Plan review regulations of the Town. At a minimum the application shall include:

1. Name of land owner(s).
2. Map and Lot numbers of the parcel(s) to be used for equestrian events.
3. A plan showing the parcel, abutters, existing development and planned improvements or alterations, parking areas and traffic access and circulation.
4. A detailed description of the proposed equestrian events including activities, hours of operation, number of participants, bathroom facilities, water supply, etc.
5. A detailed description of the measures to be implemented to ensure that the proposed activities are compatible with the neighborhood, including but not limited to traffic management, dust and noise control, disposal of manure.
6. The annual schedule of equestrian events.

7. Provisions for access to special populations if events are open to the general public.
8. A copy of the sanctioning organization's requirements for event management.
9. A traffic and parking plan shall designate areas for parking horse trailers and other oversize vehicles and for individual vehicles for those attending the equestrian events. All event parking shall be restricted to the designated areas and limited to the available spaces. No on-street parking shall be allowed. Traffic circulation shall ensure access for emergency vehicles at all times.

2.4 *Riding Lessons*: Riding lessons are all activities involving instruction, training or participation in horse-back riding provided to the general public using horses not wholly owned by the individual receiving the instruction or training. Riding lessons to more than ten individuals per day may be offered only by facilities approved under this ordinance. Prior to offering riding lessons to the public, the owner of the property shall apply for and obtain approval under the provision of the Non-Residential Site Plan review regulations of the Town. At a minimum the application shall include:

1. Name of the land owner(s).
2. Map and Lot numbers of the parcel(s) to be used for riding lessons.
3. A plan showing the parcel, abutters, existing development and planned improvements or alterations, parking areas and traffic access and circulation.
4. A detailed description of the proposed riding lesson operations including activities, hours of operation, maximum number of hourly and daily participants, bathroom facilities, waiting/classroom areas, water supply, etc.
5. A detailed description of the measures to be implemented to ensure that the activities are compatible with the neighborhood, including but not limited to traffic management, dust and noise control, disposal of manure.
6. The schedule of operation of the riding center.
7. Provisions for access to special populations if lessons are open to the general public.
8. A copy of an emergency response plan to manage accidents and injuries.
9. A traffic management plan must be prepared for any riding center offering lessons to more than 3 (three) riders per hour.

3.0 OTHER PROVISIONS

3.1 Barns or other structures used to stable horses under this ordinance shall be limited to one animal per stall and one stall per 1.0 acres of pasture. Animals covered under this ordinance smaller than standard horses (58 inches) must be provided adequate pasture area.

3.2 Barns used to stable 5 (five) or more horses may contain up to 800 sq. ft. of living space for a stable manager provided such space meets all applicable BOCA requirements and is issued an occupancy permit by the Town.

3.3 The restrictions on riding lessons contained in section 2.4 of this ordinance shall not apply to the owners of horses stabled or boarded at a facility not otherwise subject to this ordinance.

3.4 Nothing in this ordinance shall be construed to prohibit the private sale or maintenance of horses or farm livestock or to prohibit, or otherwise restrict, agricultural operations.

ARTICLE IV ZONING REGULATIONS

Section 4-1 Application of Regulations

Subsequent to passage of this Ordinance, building, or land shall hereafter be used, constructed, altered, or enlarged only in conformity with regulations specified herein for the zoning district in which it is located. 3-12-63

Section 4-2 Lots of Record

Any lot of record (See Art.IX, Sec. 9-1, Definitions, Lot of Record) in the Town of Amherst prior to the effective date of this section may be occupied by any use permitted in its zoning district, regardless of its size, provided it meets all applicable zoning, setback, building, and water pollution control regulations for the Town of Amherst. Such lots shall provide for access on a publicly or privately maintained road. 3-12-63 (3-9-92) (3-13-82) (3-13-90) (3-11-03)

Section 4-3 Residential/Rural Zone (RR) 3-12-63 (3-11-93)

A. Permitted Uses

1. One-family dwelling and accessory buildings.
2. Planned Residential Development (See Article IX Definitions)
3. Farm, Agricultural or Nursery Use
4. Roadside stand for the sale of farm produce or nursery products
3-11-93
5. Home Occupation 3-11-93
6. Open Space Plan (See Article IX Definitions)
7. Affordable Housing (see Article VIII, Section 8-5) Eliminated
3-14-95
8. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
 - a) setbacks,
 - b) buffers,
 - c) sanitary facilities,
 - d) parking,
 - e) mitigation of traffic impact, and
 - f) adequate provision of emergency services,and subject to determination by the Planning Board of the following:
 - g) Such use shall not be the primary use of the lot;
 - h) Such use shall be non-commercial in nature;

- i.) The primary participants shall be lot owners and/or residents of the Town;
- j) The lot owner and/or applicant shall receive no payment arising from such use, other than direct reimbursement for actual costs incurred because of such use;
- k) Such use shall be compatible with existing neighborhood uses;
- l) Such use complies with the spirit and letter of Section 3-1, Nuisance Provision; and
- m) No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use.

Uses involving motor-driven objects producing 60 or more decibels of sound at a range of ten feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than 500 feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m. 3-14-95

9. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/ safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA: 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws. In addition to the permitted uses referred to above, the Board of Adjustment may permit certain uses referred to above, to be carried on in the Residential/Rural Zone by way of special exception which uses are enumerated in Section 5-4 of the Zoning Ordinance and subject to the conditions and limitations therein imposed.

B. Area and Frontage Requirements

- 1. The minimum lot area shall be two (2) acres. (3-5-74) 3-14-89
- 2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-4-75) 3-10-87

C. Yard Requirements

- 1. Each structure shall be set back at least fifty (50) feet from the front lot line, or at such distance as shall conform to the line of existing buildings on that lot. (3-12-63) 3-9-82, 3-12-02
- 2. Each structure shall be set back at least fifteen (15) feet from the side and rear property lines. In the case of corner property, this distance shall be increased to thirty (30) feet on that side bordering a street, lane, or public way. (3-12-63)
- 3. Any accessory buildings shall be set back at least fifteen (15) feet from side and rear lot lines and at least thirty (30) feet from the front lot line and not exceed

twenty-two (22) feet in height. The height requirement may be waived for farm structures. (3-12-63) 3-10-87

D. Prohibited uses

1. Aircraft landing fields. 3-10-98

Section 4-4 Rural Zone (eliminated 3-11-93)

Section 4-5 Northern Rural Zone (NR) 3-2-76

General: The purpose of establishing the Northern Rural Zone is the following:

1. To recognize, establish, and affirm an area of the Town in which lower density development is of itself, desirable. (3-11-86)
2. To recognize the unique rural, scenic, and natural character of a portion of Town which has remained essentially undeveloped and unchanged during the time that the remainder of the Town has experienced considerable physical development and change. 3-2-76
3. To identify a portion of Town that contains extensive areas of poor soils, steep slopes, and limited accessibility which limits the type of development which is compatible with these limitations as well as the areas in which development can suitably take place. 3-2-76
4. To ensure that future development in this area of Town be of a type that is compatible with the area's extensive physical limitations as well as its unique rural, scenic, and natural character. 3-2-76

A. Permitted Uses

1. One-family dwelling and accessory buildings. 3-2-76
2. Farm, agricultural, or nursery use. 3-2-76
3. Roadside Stand for the sale of farm produce or nursery products. 3-2-76
4. Home Occupation. 11-2-82
5. Planned Residential Development - PRD. In order to achieve the purpose of this section, Planned Residential Development shall be encouraged as the principle method of future development of this zone. (See article IX, Definitions) (11-2-82)
6. Open Space Plan (see Article IX, definitions) 3-14-89
7. Affordable Housing (see Article VIII, Section 8-5) 3-14-89 Eliminated (3-14-95)
8. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers sanitary

facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m.

3-12-91

9. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA: 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws. (3-12-91) 3-10-92

In addition to the permitted uses referred to, the Board of Adjustment may permit certain uses to be carried on in the Northern Rural Zone by way of Special Exception which uses are enumerated in Article V, Section 5-7 of the Zoning Ordinance and subject to the conditions and limitations therein imposed. 3-2-76

B. Area and Frontage Requirements

1. The lot area shall be five (5) acres. 3-14-89

2. Each new lot shall have minimum frontage of three hundred (300) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-9-82) 3-10-87

C. Yard Requirements

1. Each structure shall be set back at least fifty (50) feet from the front lot line, or at such distance as shall conform to the line of existing buildings on that lot. (3-11-80) 3-9-82

2. Each structure shall be set back at least thirty (30) feet from the side and rear lot lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane or public way.

3. Any accessory structure shall be set back at least thirty (30) feet from side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two (22) feet in height. This height requirement may be waived for farm structures. (3-11-80/3-9-82/3-12-85) 3-10-87

D. Prohibited Uses

1. Aircraft landing fields. (3-10-98)

Section 4-6 Transition District Eliminated 3-14-78

Section 4-7 Commercial Zone (C)

General Purpose To provide commercial areas to serve major commercial and business needs of the general public. 3-14-78

A. Permitted Uses

Uses which include, but are not limited to the following: 3-13-90

1. Retail establishments 3-12-63
2. Hotel and motels. (3-12-63) 3-14-78
3. Public utility building, structure or facility. 3-14-78
4. Home Occupation. 11-2-82
5. Planned Residential Development (See Article IX Definitions) 1-2-82
6. Mixed Use Development. 3-14-89 (See Article IX Definitions)
7. Affordable Housing (See Article VIII Section 8-5) 3-14-89 Eliminated 3-14-95
8. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m. 3-12-91
9. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws. (3-12-91) 3-10-92

In addition to the permitted uses referred to above, the Board of Adjustment may permit certain uses to be carried on in the Commercial Zone by way of Special Exception, which uses are enumerated in Section 5-6 of Zoning Ordinance and subject to the conditions and limitations therein imposed. (3-12-63) 3-9-82

B. Area and Frontage Requirements

1. The Minimum lot area shall be one (1) acre. 3-14-89 (3-11-97)
2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78/3-9-82)

C. Yard and Building Requirements

- 1.a) Each new structure shall be set back either fifty (50) or one-hundred feet from the public road right-of-way of New Hampshire Route 101A. (3-14-89) 3-10-92
- (1) The fifty (50) foot option requires that a natural vegetation of landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs. (3-14-89) 3-10-92
- (2) The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way. 3-14-89
- (3) Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line. 3-14-89
- 1.b) Each new structure shall be set back fifty (50) feet from the edge of the public road right-of-way on all roads within the Commercial Zone. 3-10-92
2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. 3-14-89
3. Any lot bordering a residential zone or an existing residential use shall have a landscaped buffer between any buildings and such residential zone or use.(3-4-75)
4. No structure shall be constructed to a height greater thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. 3-11-86
5. The floor area ratio shall be a maximum of twenty-five (25%) percent. (3-12-85) 3-10-87
6. A minimum of thirty (30%) percent of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking). 3-4-75
7. There shall be no more than one access to any lot wherever desirable for traffic safety and consideration shall be given to combining access points where two or more lots are being currently developed. 3-4-75
8. All storage and/or equipment parking areas shall be fenced, screened, landscaped, or otherwise protected from view. 3-14-78

D. Prohibited Uses

1. Aircraft landing fields (3-10-98)

Section 4-8 Limited Commercial Zone (LC) 3-2-76

General Purpose: To provide commercial area to serve limited commercial and business needs of the general public.

A. Permitted Uses

1. Retail, personal service and business establishment of a type consistent with the purpose of this zone to serve limited commercial needs of various neighborhoods in Town. The foregoing shall include, but not necessarily be limited to:
 - a. retail grocery, meat, produce, drugs, stationery, hardware, baked goods 3-2-76
 - b. barber and beauty shops 3-2-76
 - c. shops for the collection and distribution of clothing materials for dying and cleaning establishments 3-2-76
 - d. banks 3-2-76
 - e. coffee or sandwich shop (except for drive-in or fast service types). 3-2-76
2. Business and/or professional offices for individual or group practice, including doctors and dentists (including medical or dental clinics), lawyers counseling services, engineers, architects, planners, insurance and accountants. 3-2-76
3. Veterinary clinic. 3-2-76
4. Gasoline service station which may have a garage for repair to automobiles only but not to include body or fender repair, paint spraying, or used car sales lots. (3-2-76) 3-12-91
5. Interior storage. (3-2-76) 3-8-88
6. Interior recreational establishments. 3-2-76
7. Home occupation. 11-2-82
8. Planned Residential Development (See Article IX Definitions) 11-2-82

9. Mixed Use Development (See Article IX Definitions) 3-14-89

10. Affordable Housing (See Article VIII Section 8-5) 3-14-89 (eliminated 3-14-95)

11. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m. 3-12-91

12. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA: 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws.

(3-12-91) 3-10-92

In addition to the permitted uses referred to above, the Board of Adjustment may permit certain uses to be carried on in the limited Commercial Zone by way of Special Exception which uses are enumerated in Section 5-9 of the Zoning Ordinance and subject to the conditions and limitations therein imposed. 3-11-86

B. Area and Frontage Requirements

1. The minimum lot area shall be one (1) acre. (3-2-76) (3-14-89) (3-11-97)

2. Each new lot shall have a minimum frontage of two hundred (200) feet on a publicly maintained road, unless frontage has been approved and recorded as reduced frontage lot/s, in which event thirty-five (35) feet shall be sufficient. (3-14-78/3-9-82) 3-10-87

C. Yard and Building Requirements

1. Each new structure shall be set back either fifty (50) or one-hundred (100) feet from the edge of the public road right-of way.

The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs.

The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way.

Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line.

On corner lots, parking areas shall be screened from the highway with fences, landscaping and natural vegetation. 3-14-89

2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. 3-14-89

3. Any lot bordering a residential zone or an existing residential use shall have a landscape buffer between any buildings and residential zone or use. 3-2-76

4. No structure shall be constructed to a height greater than thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. (3-2-76/3-12-85) 3-11-86

5. The floor area ratio shall be a maximum of twenty (20%) percent. (3-2-76/3-12-85) 3-10-87

6. A minimum of thirty (30%) percent of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking). 3-4-75 (3-13-31) 3-2-76

7. There shall be no more than one access to any lot wherever desirable for traffic safety and consideration shall be given to combining access points where two or more lots are being concurrently developed. 3-2-76

8. All storage and/or equipment parking areas shall be fenced, screened, or otherwise protected from view.

D. Prohibited Uses

1. Aircraft landing fields. (3-10-98)

Section 4-9 Industrial Zone

A. Permitted Uses

1. Light Manufacturing 3-12-63
2. Assembly of previously prepared materials 3-12-63
3. Metal working 3-12-63
4. Equipment sales and service 3-12-63
5. Creamery, bakery and soft drink bottling plants 3-12-63
6. Distribution plants, service industries and parcel delivery 3-12-63
7. Laboratories 3-12-63
8. Corporate and business offices compatible with other permitted uses in the zone and/or professional offices for individual or group practice, including

doctors and dentists (including medical and dental clinics), counseling services, engineers, architects, planners, insurance and accountants. (3-14-78) 3-10-87

9. Wholesale business and storage 3-14-78

10. Storage yards (but not junk yards) 3-14-78

11. Banks 3-10-87

12. Coffee or sandwich shops (except for fast service types) 3-10-87

13. Veterinary clinic 3-10-87

14. Interior recreational establishments 3-10-87

15. Home occupation 11-1-82

16. Public utility buildings, structures or facility (3-14-78) 3-10-87

17. Affordable Housing(See Article VIII, Section 8-5)3-14-89 Eliminated
3/14/95

18. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m.
3-12-91

19. Retail Establishments - change of use permit from the Planning Board required for existing buildings. (adopted 3-11-97)

B. No Land, building or structure shall be used for any of the purposes enumerated below:

- a. Manufacture or storage of explosives in bulk quantities greater than twenty-five (25) pounds. 3-12-63
- b. Fertilizer manufacture 3-12-63
- c. Glue manufacture 3-12-63
- d. Petroleum refining 3-12-63
- e. Smelting of metallic ores 3-12-63
- f. Preparation of cement, gypsum, lime or plaster of paris 3-12-63
- g. Manufacture of acids 3-12-63
- h. Fat rendering in preparation of grease or tallow 3-12-63
- i. Animal reduction or garbage dumping except sewage disposal or incineration done by the Town of Amherst. 3-12-63

C. Area and Frontage Requirements

1. The minimum lot area shall be one (1) acre. (3-14-78/3-13-84) 3-14-89
2. Each lot shall have a minimum frontage of two hundred (200) feet on the principle route of access. (3-14-78) 3-13-84

D. Yard and Building Requirements

1. Each new structure shall be set back either fifty (50) or one-hundred (100) feet from the edge of the public road right-of-way. 3-14-89

The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs. 3-14-89

The one-hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be set back a minimum of fifty (50) feet from the edge of the highway right-of-way. 3-14-89

Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line. 3-14-89

On corner lots, parking areas shall be screened from the highway with fences, landscaping and natural vegetation. 3-14-89

2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines. 3-14-89

3. Any lot bordering a residential zone or an existing residential use shall have a landscaped buffer between any building and such residential zone or use. 3-4-75

4. No structure shall be constructed to a height greater than thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation, excepting Industrial structures south of the Boston & Maine Railroad which shall not exceed fifty (50') feet for inhabited and eighty (80') feet for uninhabited structures. (3-4-75/ 3-11-86) 3-12-91

5. The floor area ratio shall be a maximum of forty (40%) percent. (3-4-75)
3-10-87

6. A minimum of thirty (30%) percent of the area of any lot shall remain open space and not be utilized for construction including parking. 3-4-75 (3-13-01)

7. There shall be no outside storage of materials or equipment between the front of any buildings and the street. All storage and/or equipment parking areas shall be fenced, screened, landscaped or otherwise protected from view. 3-4-75

E. Access

to any lot with frontage on Route 101A shall be by such other streets as are available and not by Route 101A unless no other access is available. 3-14-78

Section 4-10 Flood Plain Conservation District 3-10-70 (3-11-97)

General: In the interest of public health, convenience, safety and welfare, the regulations of this district are intended to guide the use of areas of flood plain subject to flood water, and to encourage the retention of open land so as to constitute an harmonious

and appropriate physical development of the Town, as developed from the Master Plan. The specific intent of this district is:

1. To prevent the development of buildings and uses in areas that are unsatisfactory and hazardous due to the threat of flooding.
2. Protection of natural flow and drainage.

Definition: The Flood Plain Conservation District is hereby determined to be those areas of land within the Town of Amherst designated within the 100 year flood boundary on a series of maps entitled “ National Flood Insurance Program, FIRM, Town of Amherst, NH, Hillsborough County”, and consisting of twelve individual maps prepared by the Federal Insurance Administration, a division of the U.S. Department of Housing and Urban Development, dated July 2, 1979.
(9-22-79)

Item 1 Definition of Terms: The following definitions shall apply only to this Floodplain development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Amherst, NH.

“Area of shallow flooding” means a designated AO, AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of Special Flood Hazard” is the land in the floodplain within the Town of Amherst subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FHBM and is designated on the FIRM as zones A, AO, AH, A1-30.

“Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.

“Basement” means any area of a building having its floor subgrade on all sides.

“Building” - see “structure”

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.

“ Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

“FEMA” means the Federal Emergency Management Agency.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map” (Floodway Map) is an official map of the Town of Amherst, on which FEMA has delineated the “Regulatory Floodway”. This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

“Flood Elevation Study” means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood - related erosion hazards.

“Flood Insurance Rate Map” (FIRM) means an official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Amherst.

“Flood Insurance Study” - see **“Flood elevation study”**.

“Floodplain” or “Flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

“Floodway”- see **“Regulatory Floodway”**.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long- term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the

Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- 1) By an approved state program as determined by the Secretary of the Interior, or
- 2) Directly by the Secretary of the Interior in states without approved programs.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

“Mean Sea Level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

“100-Year flood”- see “base-flood”

“Recreational Vehicle” is defined as:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;

C. Designed to be self propelled or permanently tow able by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory floodway” means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

“Special flood hazard area” means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E. (See - “Area of Special Flood Hazard”)

“Structure” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Start of Construction” includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the

structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however include any project for improvement of a structured required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a “historic Structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“ Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in floodplains.

A. Permitted Uses

Any of the following uses, which may require a permit, that do not result in the erection of any structures or require the addition of fill, and that are otherwise permitted by the Zoning Ordinance.

1. Minor fences, docks, wharfs, boat houses
2. Agriculture
3. Forestry
4. Recreational purposes such as accessory tennis courts, swimming pools, playing fields
5. Golf courses
6. Parking lots, driveways, roads
7. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
 - i) setbacks,
 - ii) buffers,
 - iii) sanitary facilities,
 - iv) parking,
 - v) mitigation of traffic impact, and
 - vi) adequate provision of emergency services, and subject to determination by the Planning Board of the following:
 - vii) Such use shall not be the primary use of the lot;
 - viii) Such use shall be non-commercial in nature;
 - ix) That the primary participants shall be lot owners and/or residents of the Town;
 - x) The lot owner and/or applicant shall receive no payment arising from such use, other than direct reimbursement for actual costs incurred because of such use;
 - xi) Such use shall be compatible with existing neighborhood uses;
 - xii) Such use complies with the spirit and letter of Section 3-1,

Nuisance Provision.

- xiii) No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use; and
- xiv) The Conservation Commission has determined, and the Planning Board agrees, that such use shall not: a) contribute to pollution of surface or groundwater; b) damage or destroy habitats or reproductive areas for plants, fish, and wildlife of importance; c) eliminate, depreciate, or obstruct the commerce, recreation or aesthetic enjoyment of the public; d) be detrimental to adequate ground water levels; e) adversely affect stream channels and their ability to handle runoff of water; or f) disturb or reduce the natural ability of wetlands to absorb floodwaters and salt.

Uses involving motor-driven objects producing 60 or more decibels of sound at a range of ten feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than 500 feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m.

- 8. Recreational vehicles placed on sites within the flood zone shall be either; a) be on site for fewer than 180 consecutive days, b) be fully licensed and ready for highway use; or c) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph c(6) of Section 60.3.

Item III.

The Zoning Administrator shall review all building permit applications for new structures or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- i.) be designated (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- ii) be constructed with materials resistant to flood damage;
- iii) be constructed by methods and practices that minimize flood damages; and
- iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Item IV.

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Zoning Administrator with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Item V.

For all new or substantially improved structures located in Zones A, A1-30, AE, AO or AH, the applicant shall furnish the following information to the Building Inspector:

- (a) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (b) if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- (C) any certification of flood proofing.

The Zoning Administrator shall maintain for public inspection, and shall furnish such information upon request.

Item VI.

The Zoning Administrator shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Item VII.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Zoning Administrator, in addition to the copies required by RSA 482-A:3.
2. The applicant shall submit to the Zoning Administrator, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. Along water courses with a designated Regulatory Floodway no encroachments, including fill, new construction substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In zone A the Zoning Administrator shall obtain , review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that development meet the floodway requirements of this section.

4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Item VIII.

1. In special flood hazard areas the Zoning Administrator shall determine the 100 year flood elevation in the following order of precedence according to the data available:

- a. In zones A1-30, AH, AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
- b. In unnumbered A zones the Zoning Administrator shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
- c. In zone A0 the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2 feet.

2. The Zoning Administrator's 100 year flood elevation determination will be used as criteria for requiring in zones A, A1-30, AE, AH, AO, and A that:

- a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation;
- b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:
 - (i) be so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;

c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind force;

d. All recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either:

i. be on the site for fewer than 180 consecutive days;

ii be fully licensed and ready for highway use; or

iii meet all standards of section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for “manufactured homes” in Paragraph (c) (6) of section 60.3.

e. For all new Construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements: 1) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage; (2) the area is not a basement; (3) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

f. Proposed structures to be located on slopes in special flood hazard areas, zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

Item IX: Variances and Appeals.

1. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

- (a) that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - (b) that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - (c) that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of Insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

B. Special Provisions

All plans for new structures or substantial additions to existing structures or other development proposed in flood hazard areas shall be certified by a registered professional engineer or architect as complying with the revised November 24, 1989 Model Flood plain Development Ordinance, developed by the Federal Emergency Management Agency. (3-14-89) 3-13-90

Section 4-11 Wetland Conservation District

General The Wetland Conservation District is hereby determined to be those areas identified or delineated as poorly drained or very poorly drained soils, or as bodies of water by the National Cooperative Soil Survey through field mapping surveys completed in 1970 and shown on its field mapping photographic sheets for the Town of Amherst, New Hampshire. The Wetland Conservation District as herein defined as shown on a map designated as:

“U.S. Department of Agriculture Soil Conservation Service
Town of Amherst, Hillsborough County, New Hampshire
Soil Survey, November 1970

Amherst Wetlands Conservation District Map adopted 1973
Amended March 1975 (3-4-75) and is a part of the ‘Zoning Map’
of the Town of Amherst, NH

In all cases where the Wetland Conservation District is super-imposed over another zoning district in the Town of Amherst, that district whose regulations are the more restrictive shall apply.

In the event an area is incorrectly designated as being poorly drained or very poorly drained soils on the Town of Amherst Wetland Conservation District map and evidence to that effect is satisfactorily presented to the Building Inspector or Zoning Administrator, the restriction contained in this section shall not apply. Conversely, in the event that an area not so designated has poorly drained or very poorly drained soils within the meaning of the aforementioned definition, then the restriction contained in this section shall apply. Such evidence may be obtained by adequate on-site soils investigation and analysis conducted by a certified soil scientist or certified wetland scientist. As amended 3-11-80

The location of a wetland boundary in any particular case must be determined by on-site inspection of all three characteristics of wetlands, namely, hydrology, hydric soils, and hydrophytic plants. Said inspections shall conform to standards set forth in:

Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, Environmental Laboratory, Department of the Army, 1987.

Field Indicators for Identifying Hydric Soils in New England, Version 2, New England Interstate Water Pollution Control Commission, 1998.

Chapters Wt 100-800 of the NH Code of Administrative Rules, April 21, 1997, as amended.

In the interest of public health, convenience, safety and welfare, the regulations of the Wetland Conservation District are intended to guide the use of areas of land that have soils that are saturated or inundated for extended periods of time during the growing season, and their surrounding buffers.

The specific intent of this District is:

1. To prevent the development of buildings and land use on naturally occurring wetlands, which would contribute to pollution of surface and ground water. 3-6-73
2. To prevent the destruction of natural wetlands which provide flood protection, recharge of ground water suppliers, retention of sediments, attenuation of nutrients, augmentation of stream flow during dry periods, and important wildlife areas. 3-6-73
3. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands. 3-6-93
4. To encourage those uses that can be appropriately and safely located in the wetland area. 3-6-73

5. To protect water suppliers, aquifers and aquifer recharge areas.

A. Permitted Uses

Any of the following uses, which may require a permit, and that do not result in the erection of any structure and that are otherwise permitted by the Ordinance:

1. Forestry - tree farming (see part B) 3-6-73
2. Agriculture (see Part B) 3-6-73
3. Well and well lines 3-11-80
4. Wildlife refuge 3-6-73
5. Parks and such recreation uses as are consistent with the purpose and intentions of Section 4-11 3-6-73
6. Conservation areas nature trails 3-6-73
7. Open space as permitted by subdivision regulations and other sections of this Ordinance 3-6-73
8. Minimal impact crossing of wetland and their buffers by roads, bridges and driveways, subject to Planning Board review and approval, and only when there is no feasible alternative. 3-12-91 (3-11-03)
9. Other uses consistent with the intent of the ordinance as approved by the Planning Board pursuant to Part D below. 3-13-01

B. Special Provisions

1. No wetland may be used to satisfy minimum lot size requirements in any zone.
2. No septic tank or leach field may be located closer than seventy-five (75) feet to any wetland.
3. No structure shall be erected within fifty (50) feet of any wetland.
4. A naturally vegetated buffer of twenty-five (25) feet shall be maintained from the edge of any wetland.
5. A naturally vegetated buffer of one hundred (100) feet shall be maintained from the edge of any Public Water Protection Wetland, as defined in Part C of this ordinance.
6. Except as determined by the Planning Board there shall be no alteration of contours and no filling of land within a buffer. (3-11-03)
7. Except as provided for in A.8., no structures, parking areas or driveways (paved or unpaved) shall be located within a buffer. Within a buffer, the footprint of an existing structure, parking area or driveway shall not be expanded. Forestry and tree farming in buffers shall be conducted in accordance with Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire, published by the NH Department of Resources and Economic Development, as amended. (3-11-03)

8. Agricultural activities in buffers shall be conducted in accordance with the Manual of Best Management Practices for Agriculture in New Hampshire, published by the NH Department of Agriculture, as amended. Such activity is prohibited within a 25 ft. buffer. (3-11-03)

9. A “Water Resource Management Plan” which provides for substitutes for wetlands restrictions and setbacks may be submitted to the Planning Board. See Part D. (3-11-03)

10. Nothing in this Part B, Special Provisions shall be construed as prohibiting the permitted uses contained in Part A above. (3-11-03)

C. Public Water Protection Wetlands

The town’s wetlands ranked highest for their critical role in protecting public water supplies shall be designated as Public Water Protection Wetlands (See the Amherst Wetland Assessment and Prime Wetland Designation Project report dated January 2000).

Witches Brook	Ponemah Bog	Thibodeau Bog
Theriaults Marsh	Glover Beds	Ponemah Hill Complex
Stump Pond	Homestead Commons	J&J Party Outlet Nolan Pond
Maine RR Sand Pit	Belden’s Mill	Currier Lumber
Baboosic Lake	North Baboosic	Boardman
Horace Greeley Triangle	Jasper Valley	Baboosic Forested
Weimont	Honey Pot Pond	Black Forest
Souhegan Three	Curtis Well	House of Faith
Beaver Brook South	Holt Road	Souhegan Street
Meeting Place	Currier Land	Pond Parrish
North Embankment Road	Corduoy/Dog Pound	Pulpit Meadow
Souhegan Two	St. Patricks Cemetery	Little Baboosic
Souhegan One	Post Road & Courthouse	Great Meadow
Ross Bird Sanctuary	Hertzka Atherton	
Pond Parish Outlet	Southfield	

In addition, wetlands located within NH Public Water Supply Wellhead Protection Areas (delineated by NH Department of Environmental Services) and wetlands within the Pennichuck Brook Watershed as shown on the plan titled shall be designated Public Water Protection Wetlands.

D. Water Resource Management Plans Alternative use

The use restrictions and setbacks established in Parts A and B above are important measures intended to protect wetlands, ground water, surface water, and important wildlife resources. Part D of the ordinance is intended to provide for the development of a comprehensive plan for the protection of these resources as part of the site plan approval process in lieu of the standard requirements of the ordinance listed in Parts A and B above. Under the provisions contained in this part, the Town and landowners are offered greater flexibility in establishing effective controls through development, implementation and maintenance of site specific Water Resource Management Plans. When meeting the criteria below, and when the owner so elects, a site-specific plan may be adopted, upon review of the Conservation Commission, Pennichuck Water Works (if required), and approval of the Planning Board, for the protection of water and wildlife resources.

The provisions of this part are applicable, for modification of or an alternative to the provisions contained in Parts A and B above, to any parcel of land to be developed or otherwise altered if one or more of the following conditions are met:

- a. if the parcel is greater than 10 acres;
- b. if the plan involves a subdivision of a parcel into 5 or more lots;
- c. if the parcel contains wetlands area of greater than 2.0 contiguous acres, or;
- d. if the parcel falls within the standard setbacks of Public Water Protection Wetlands defined in Part C above.

General Requirements

Each Water Resource Management Plan must conform to the intent of the ordinance and provide for effective, long term design and engineering controls to minimize the impacts of development and other uses adjacent to wetland areas. These plans are intended to provide for alternative controls to the setbacks and use restrictions. In no case should this section be interpreted to allow wetland degradation.

- 1. Mitigation plans are to incorporate controls that achieve a “best available technology” (BAT’s) standard for engineering design.
- 2. As a minimum, site activities and uses are to reflect applicable Best Management Practices as issued by the New Hampshire Department of Environmental Services or other state agency.
- 3. Plans must incorporate documentation of all monitoring, maintenance and reporting provisions and procedures as well as any needed legal provisions to ensure future compliance with the plans.
- 4. A minimum 25 ft. undisturbed, naturally vegetated buffer shall be established under a Water Resource Management Plan for all Public Water Protection Wetlands. The extent of the buffers must reflect the nature and value of the resources to be protected as defined in Sec. 4-11, General 2. (3-11-03)
- 5. Building setbacks from the edge of the wetland may vary but in no case shall the setback be less than 50 feet.

6. Plans for any residential development that contain more than 2.0 acres of Public Water Protection Wetlands, or a commercial or industrial development should include surface and groundwater monitoring implementation methods and timetables. In addition to hazardous chemicals stored or used on the site, monitoring should include nutrients contributed by fertilizer applications, pesticides and herbicides of concern, chlorides, coliform bacteria and BOD. A program for reporting baseline and periodic testing for at least two years is required.

Water Resource Management Plan Requirements

A minimum of forty-five (45) days prior to submission to the Amherst Planning Board, each Water Resource Management Plan shall be presented to the Amherst Conservation Commission for review, and also to Pennichuck Water Works for review if the parcel is within the Pennichuck Brook watershed.

Each Water Resource Management Plan submitted to the Planning Board for review shall contain the following provisions:

1. Identification of the risks to water resources from the proposed site activities or development and site specific restrictions to eliminate or control uses and activities that produces impacts;
2. Identification of ecologically sensitive areas and features, including but not limited to, water supplies and water resources, wildlife and wildlife habitats or other resources within the influence of the site that warrant high levels of protection;
3. Site design and engineering controls to minimize both on-site and off-site (within 500 ft.) impacts to water resources;
4. Storm water provisions shall include at a minimum:
 - a. Post development storm water peak (for 10-year storm) must be less than or equal to predevelopment storm water peak.
 - b. Post development infiltration (2-year storm) must be greater that or equal to predevelopment storm water peak.
 - c. Storm water facilities must have a solids removal area that is independent of infiltrative area. Solids removal area must be easily cleaned. Storm water facilities must be designed for grease and oil removal (either mechanical or biological with plants);
5. A letter from the New Hampshire Natural Heritage Inventory containing information on any rare or endangered species within the project area, or within 500 ft. of the nearest wetland/buffer impact site, whichever is furthest;
6. Written provisions for the protection of any rare or endangered species as referenced above or known by the Conservation Commission;
7. Provisions for the protection of the ecologically sensitive areas and features of the site;

8. Building and storage area design to prevent releases or spills of hazardous materials;
9. Prohibitions on the use of lawn chemicals or implementation of an integrated pest management plan to govern the use of lawn chemicals;
10. Prohibition on the use of salt for winter road and parking lot maintenance and sedimentation controls for winter sand use;
11. Provisions for periodic groundwater monitoring and reporting, if required;
12. Provisions for periodic surface water monitoring and reporting, if required;
13. A plan showing the edge of wetlands within 500 ft. of the nearest impact area, and all setback/buffer areas for any Public Water Protection Wetland;
14. Provisions for future maintenance of the engineering design, operating and monitoring controls to be implemented;
15. A copy of the Pennichuck Water Works review report, if required;
16. A copy of the Amherst Conservation Commission review report.

Section 4-12 Watershed Protection District

General In the interest of public health, convenience, safety and welfare, the following regulations are intended to guide the use of areas of land with extended periods of high water table and lands draining into wetlands, brooks, ponds or water supply areas; to control building and land uses which would contribute to pollution of surface and ground water; to prevent the destruction of watershed areas which provide flood protection, recharge or ground water supply, and augmentation of stream flow during dry periods; to control construction and prevent alteration of watershed areas where such activities would significantly alter the surface water drainage (pattern and concentration) and/or cause excessive erosion; to prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of watershed areas; and to encourage those uses that can be appropriately and safely located in this District. 3-2-76

1. Definition of Watershed Protection District

Watershed Protection District shall mean an area of land surrounding bodies of water for the purpose of controlling building and land uses, which uses could contribute to the pollution of surface and ground water. Watershed Protection district shall also mean any areas of surface or ground water of such a nature that if altered by dredging, filling, or relocating, would result in damage or destruction to habitats and reproduction areas for plants, fish and wildlife of importance, and if altered by dredging, filling, or relocating, would result in eliminating, depreciating or obstructing the commerce, recreation and aesthetic enjoyment of the public, and would be detrimental to adequate ground water levels, and would adversely affect stream channels and their ability to handle runoff of waters, and would disturb and reduce the natural ability of wetlands to absorb flood waters and silt. (3-14-78) 3-11-86

For the purpose of this section, such Watershed Protection District shall include, but not be limited to, all lands within one hundred (100) feet of bodies of water, perennial streams, or intermittent streams.

Intermittent stream is one that flows within well defined stream beds during wet periods.

2. Regulations: No septic system and no building shall be constructed within the Watershed Protection District. 3-8-77

A. Permitted Uses

Any of the following uses, which may require a permit, and that do not result in the deterioration of the water quality or cause erosion in the Watershed Protection District shall be permitted:

1. Miscellaneous trimming, pruning, and thinning according to good forestry practices.
2. Tree farming, timbering and forestry according to practices approved by the County Forester.
3. Wildlife refuge
4. Wharfs, boat houses, footbridges or similar structures normally associated with use in or near water. (3-2-76) 3-12-91
5. Non-commercial sports and recreation uses, subject to obtaining Planning Board site approval, which shall provide at minimum for applicable:
 - i) setbacks,
 - ii) buffers,
 - iii) sanitary facilities,
 - iv) parking,
 - v) mitigation of traffic impact, and
 - vi) adequate provision of emergency services,and subject to determination by the Planning Board of the following:
 - vii) Such use shall not be the primary use of the lot;
 - viii) Such use shall be non-commercial in nature;
 - ix) That the primary participants shall be lot owners and/or residents of the Town;
 - x) The lot owner and/or applicant shall receive no payment arising from such use, other than direct reimbursement for actual costs incurred because of such use;
 - xi) Such use shall be compatible with existing neighborhood uses;
 - xii) Such use complies with the spirit and letter of Section 3-1.

Nuisance Provision.

- xiii) No permanent buildings shall be permitted as part of such use, except for sheds to the extent necessary for storage of equipment for such use; and
- xiv) The Conservation Commission has determined, and the Planning Board agrees, that such use shall not: a) contribute to pollution of surface or ground water; b) damage or destroy habitats or reproductive areas for plants, fish, and wildlife of importance; c) eliminate, depreciate, or obstruct the commerce, recreation or aesthetic enjoyment of the public; d) be detrimental to adequate ground water levels; e) adversely affect stream channels and their ability to handle runoff of water; or f) disturb or reduce the natural ability of wetlands to absorb floodwaters and salt.

Uses involving motor-driven objects producing 60 or more decibels of sound at a range of ten feet as part of the sport or recreation are prohibited. Night lighting primarily for uses permitted under this section may be allowed by the Planning Board when more than 500 feet from any abutting lot line, but not between 9:00 p.m. and 7:30 a.m.

Section 4-13 Aquifer Conservation District 3-13-84

PURPOSE Pursuant to RSA 31:60 (674:16) and RSA 31:61A (674:21) and in order to help maintain the quality of living in the Town of Amherst as set forth in the Master Plan, the Town believes that an adequate water supply is indispensable to the health, welfare, and safety of its citizens. Such an adequate supply is also essential to the maintenance of the ecological balance of the natural environment of the Town, an environment which the Town wishes to protect. These water resources are subject to an ever increasing demand for new and competing uses. Thus, the Town declares and determines that such water resources whether occurring above or below ground constitute a precious, finite, and invaluable public resource. These resources should be protected, conserved, and managed in the interest of present and future generations. The intent of this ordinance is to provide for the protection of the water resources from contamination by polluting, hazardous, or toxic materials.

LOCATION The Aquifer Conservation District is identified as those areas designated by blue shading or crosshatching which appear on statewide mapping prepared by the U.S. Geological Survey entitled "Availability of Ground water in the Lower Merrimack River Basin, Southern New Hampshire" by John E. Cotton 1977, and as may be amended or superseded by the U.S.G.S. or by the Planning Board as provided herein from time to time. This map is on display in the Zoning Office of the Town of Amherst. The District shall include mapped primary and secondary recharge areas.

A. Permitted Uses

Any of the following uses, which may require a permit, that meet the purpose of the District outlined above which comply with all of the following requirements and conditions:

1. Industrial or commercial uses, in the Industrial and Commercial zones respectively, which discharge no hazardous, or toxic waste on site and which uses are non-polluting.
2. Residential uses.
3. Activities designed for conservation of soil, water, plants and wildlife.
4. Outdoor recreation activities except those which destroy the surfaces of hillsides, and other watershed areas.
5. Operation and maintenance of existing bodies of water, wells, dams or other conservation devices.
6. Forestry uses provided that the land is returned to its natural state in order to prevent loss of top soil, erosion, or alteration of the normal drainage patterns and flow. Agricultural uses where the land in question is planted with a cover crop when the use is terminated.
7. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m. 3-12-91

B. Prohibited Uses

The following uses are prohibited in this District:

1. Outdoor storage of road salt or other deicing chemicals and dumping of snow containing road salt or other deicing chemicals.
2. Solid Waste disposal sites.
3. Seepage disposal sites and lagoons.
4. Automotive repair shops, junkyards, automotive junkyards, and automotive salvage operations, as well as any similar use which might potentially affect water quality.
5. On-site storage of hazardous waste, or toxic materials, except temporarily as necessary in the ordinary course of business. A permit is required for such temporary storage.
6. Residential underground hazardous fuel storage tanks (3-14-89)
7. Filling Stations/Gas Stations 3-11-93

C. Special Conditions

The following conditions shall apply to all uses in this District:

1. Sanitary waste water discharge to septic and leaching systems shall conform to the regulations set forth in the Town of Amherst Water Pollution Control Regulations.
2. All liquid or solid waste other than normal septic effluent shall be temporarily stored on-site and disposed of in a manner determined by the Planning Board.
3. Monitoring wells shall be established for all industrial and commercial uses utilizing or storing hazardous or toxic materials. The number, construction, and location of these wells shall be determined by the Planning Board. These wells shall be checked for compliance with the Interim Primary Drinking Water Regulations and Secondary Drinking Water Regulations as provided for in the Safe Drinking Water Act of 1974. The checking of wells shall take place on a monthly basis and the results reported to the Board of Health.
4. Non-residential storage of petroleum products shall be above ground in a manner approved by the Fire Department unless Planning Board permission is obtained for subsurface storage. It shall be the responsibility of every applicant for such permit to demonstrate to the satisfaction of the Planning Board that subsurface storage can be accomplished in a manner which will not adversely affect the aquifer. Subsurface storage of such materials is permitted only with permission of the Planning Board and with such conditions specified to prevent the pollution of the aquifer. Permits issued by the Board of Selectmen shall be for a period of not more than fifteen (15) years, renewable upon application.
5. Use of pesticides, herbicides, fertilizers, manure and other potentially dangerous leachables shall be controlled in a manner determined by the Board of Health and in compliance with RSA 149D, 149D:7, 222 and the NH Code of Administrative Rules. Storage of these materials shall not be outdoors.
6. When an industrial or commercial use changes on a site within this district to a use which involves the use, storage, or disposal of hazardous or toxic materials, a non-residential site review shall be required.
7. No more than 70% of a lot should be rendered impervious.
8. Storm water drainage from Aquifer sites shall be collected into catch or settling basins before leaving the site.

D. Incorrectly Designated Zones

When the actual boundary of the Aquifer Conservation District is disputed, the Planning Board, at the complainant's expense and authorization, may engage a professional geologist or hydro geologist to determine the precise location of the Aquifer Conservation District boundaries in the properties affected. A report of his/her findings shall be submitted to the Planning Board and shall include but not be limited to the following:

1. A revised soils map of the area in question prepared by a soils scientist qualified in hydrologic studies along with a written report of his/her on-site field inspection and test boring data.
2. The Planning Board shall adjust the boundary of this district based on the evidence provided as set forth above. It shall reserve the right to withhold action on any plat pending the results of an on-site inspection by the Board or its appointed agent and shall act to approve or disapprove the plan within ninety (90) days of submission or such further time as deemed necessary, but not to exceed an additional ninety (90) days.

E. Administration

All existing industrial and commercial uses utilizing or storing hazardous or toxic materials which are located within the Aquifer Conservation District must be reviewed by the Planning Board within six (6) months of the enactment of this Ordinance and must be in compliance with the conditions of this ordinance by January 1, 1986.

F. Non-Conforming Uses

Non-conforming uses which exist at the time of adoption of this ordinance may continue unless that use is found by the Board of Selectmen in consultation with the Planning Board to be an imminent danger to the public health, safety, and welfare. In such cases, that use must be brought into conformance with this Ordinance in a timely fashion as determined by the Board of Selectmen or the Board of Health. 3-13-84

Section 4-14 General Office Zone (GO) 3-12-85

A. Permitted Uses

1. Professional offices 3-12-85
2. General offices of individuals or groups for the handling of administrative functions such as but not specifically limited to: executive offices, business offices handling sales or services off the premises, including salesmen, agents or representatives of manufacturing, distributing, insurance and wholesale companies. 3-12-85. Specifically excluded is the retail sale of any product from the premises. 3-12-85
3. Mixed use development, limited to office and residential uses. (See Article IX Definitions) (3-14-89) 3-13-90
4. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary

facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m. 3-12-91

5. Outside storage of materials and/or equipment, other than vehicles, shall be prohibited.

B. Area and Frontage Requirements

1. The minimum lot area shall be (1) acre except for a residential use which shall be two (2) acres. 3-12-85
2. Each lot shall have a minimum frontage of two hundred (200) feet on the principle route of access to the lot. 3-12-85

C. Yard and Building Requirements 3-12-91

1. Each new structure shall be set back either fifty (50) or one hundred (100) feet from the edge of the public road right-of-way.

The fifty (50) foot option requires that a natural vegetation or landscaped area only shall exist between the structure and the highway, excepting driveways and permitted signs.

The hundred (100) foot option allows parking areas to the front of the structure, which parking areas shall be setback a minimum of fifty (50) feet from the edge of the highway right-of-way.

Any permitted enlargement of pre-existing structures shall be beyond the fifty (50) foot setback line.

On corner lots, parking areas shall be screened from the highway with fences, landscaping and natural vegetation.

2. Each new structure or addition to a structure shall be set back thirty (30) feet from side and rear lot lines.
3. Any lot bordering a residential zone or an existing residential use shall have a landscape buffer between any buildings and such residential zone or use.
4. No structure shall be constructed to a height greater than thirty-five feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation.
5. The floor area ratio shall be a maximum of twenty percent (20%).

6. A minimum of thirty percent (30%) of the area of any lot shall remain landscaped open space and not be utilized for construction (including parking).
7. There shall be no more than one access to any lot wherever desirable for traffic safety and consideration shall be given to combining access points where two or more lots are being concurrently developed.
8. All storage and/or equipment parking areas shall be fenced, screened, or otherwise protected from view. 3-12-91

D. Architectural Design

1. As a condition of final approval, the applicant must obtain the Planning Board's approval of the exterior architectural design to ensure that it is in harmony with the neighborhood and the surrounding environment. 3-12-85

E. Prohibited Uses

1. Aircraft landing fields. (3-10-98)

Section 4-15 Historic District (HD)

(Adopted 3-11-86; re-drafted 3-13-01)

Section I Historic Preservation

1.1 Purpose. The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the public for the protection, enhancement, perpetuation and preservation of the Historic District. It is hereby declared that it is a public purpose that the heritage of Amherst will be safeguarded by:

- A. Preserving districts in Amherst which reflect elements of the cultural, social, economic, political and architectural history;
- B. Conserving property values in such districts;
- C. Fostering civic beauty;
- D. Strengthening the local economy;
- E. Promoting the use of an historic district for the education, pleasure, and welfare of the citizens of Amherst.

1.2 Definitions. (3-13-01) Unless specifically defined below, words or phrases in this ordinance shall be interpreted to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

*a. **Abutter**.* Any person whose property is located in the Amherst Village Historic District and adjoins or is directly across the street or stream from the land under consideration by the Commission. For purposes of receiving testimony only and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his property will be directly effected by the proposal under consideration.

*b. **Alteration**.* Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

*c. **Alternate Member**.* A member of the Commission who, at the direction of the chairperson, serves in the absence or disqualification of a regular member of the Commission.

*d. **Appearance**.* The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

*e. **Appurtenance**.* Property that is situated on, but subordinate to, the structure or place, such as a hot tub, swimming pool, antennae, satellite dish, etc.

*f. **Building**.* Any structure that has a roof and is intended to shelter people, animals or chattel.

- g. **Building Permit (or Permit).** A certificate issued by the Zoning Administrator permitting the building, alteration, installation, repair, or change of buildings, fences (within the Historic District), land, or uses as regulated by the Zoning Ordinance. (3-11-03)
- h. **Certificate of Approval (or Certificate).** A certificate issued by the Historic District Commission indicating its approval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within an Historic District.
- i. **Change of Use.** A change in how a structure or place is utilized or developed, whether for industrial, commercial, residential or agricultural purposes.
- j. **Character.** The aggregate of visible historic and architectural features and traits that together form the individual nature of an historic district.
- k. **Commission.** Commission shall mean the Historic District Commission of the Town of Amherst, New Hampshire.
- l. **Construction.** The act of adding an addition to an existing structure or the erection of a new principal accessory or structure on a lot or property.
- m. **Demolition.** Any act or process that destroys in part or in whole a landmark or structure.
- n. **Designation.** Act of identifying historic structures and districts subject to regulation in historic preservation ordinances or other preservation laws.
- o. **Design Guidelines (or Guidelines).** Standards of appropriate design and activity developed by the Commission which offers property owners guidance in preserving the historic and architectural character of a structure, setting, or place, and which standards shall include the *Secretary of the Interior's Standards for Rehabilitation*. (See *Regulations*.)
- p. **Ex Officio Member.** Any member of the Commission who holds office by virtue of an official position and who shall exercise all the powers of a regular member of the Commission.
- q. **Elevation.** The orthographic projection of an object or structure on a vertical picture plane parallel to one of its sides, and usually drawn to scale.
- r. **Historic District.** An area designated by ordinance of the Town of Amherst and which contains within definable geographic boundaries a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.

- s. **Historic Property (or Historic Resource).** Any prehistoric or historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, social, economic, political, or architectural significance.
- t. **Maintenance.** Ordinary maintenance and repair of any architectural feature that does not involve removal or a change in design, dimensions, materials or outer appearance of such feature.
- u. **Moving.** Any relocation or removal of a structure on its site or to another site.
- v. **National Register of Historic Places (or National Register).** Official inventory of "districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture."
- w. **Orthographic Projection.** A method of projection in which a three-dimensional object is represented by projecting lines perpendicular to a picture plane.
- x. **Place.** An open space of land within the historic district.
- y. **Preservation.** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.
- z. **Reconstruction.** The act or process of reproducing by new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purposes of replicating its appearance at a specific period of time and in its historic location.
- aa. **Regular Member.** A member of the Commission who has full voting power.
- bb. **Regulations.** Local design guidelines and standards of review promulgated by the Commission that interpret and implement statutory requirements and are in conformance with the Historic District Zoning Overlay.
- cc. **Rehabilitation.** The process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
- dd. **Repair.** Any change that is not construction, addition, demolition, moving, or alteration.
- ee. **Restoration.** The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.
- ff. **Rules of Procedure.** A set of rules adopted by the Commission pursuant to RSA 676 concerning the method of conducting the Commission's business.

gg. **Scale.** A certain proportionate size, extent, or degree, usually judged in relation to some standard or point of reference.

hh. **Street.** Relates to and includes street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways.

ii. **Structure.** Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to: buildings, fences, stone walls, gazebos, signs, backstops for tennis courts and ballparks, antennae, above ground pools and hot tubs, air conditioning units, propane tanks, playground equipment, etc.

jj. **Texture.** The visual and tactile quality of a surface, apart from its color or form.

kk. **Zoning Ordinance.** The laws of the Town of Amherst regulating the building, alteration, installation, repair, or change of buildings, land, or uses within the borders of the entire town.

Section II Historic District

2.1 Amherst Village Historic District. Pursuant to RSA Chapter 674:46, there is hereby established an historic district known as the Amherst Village Historic District, the boundaries of which are delineated on the Zoning Map on file with the Zoning Administrator.

2.2 Historic Significance. The Amherst Village Historic District is hereby recognized as an area of unique character, and architectural nature which can contribute significantly to the attractiveness and vitality of Amherst. It is further recognized that the character and nature of the area depends on the unity of design of the complex in which each building contributes creating a value greater than the sum of the individual contributions. The character and value of the area as the county seat and center of government of Hillsborough County from 1771 to 1879, the continuity of rich architectural expression, quality and integrity in closely related styles, materials, scale and detail in individual buildings and throughout the area and the opportunities that the area offers to maintain its historical heritage. The opportunities that the area offers are recognized as including retention of the architectural and historic values of the area. This ordinance is intended to provide for regulations of activities that would alter the exterior appearance of existing and proposed structures and for activities that would alter the use and appearance of the exterior spaces adjoining these buildings.

2.3 Criteria for designation of local historic districts. Criteria for the designation of local historic districts shall be the same as the National Register criteria as set forth in 36 CFR 60 ["Code of Federal Regulations," Chapter 36, Part 60 published in the *Federal Register*]. 3-13-01

2.4 Procedures for designation of local historic districts. An historic district shall be considered to be superimposed over the existing zoning districts and the rules and regulations applicable to an historic district shall be in addition to those applicable to the zoning districts which have been established for the area and as they may from time to time be amended.

Procedures for the designation of local historic districts shall be in conformance with RSA 674:46 and other applicable statutory requirements.

Section III Historic District Commission

In order to carry out the purpose of this ordinance, a Historic District Commission known as the Amherst Historic District Commission is hereby established pursuant to RSA Chapter 673 which Historic District Commission is the successor to, and a continuation of the Historic District Commission established at the Annual Meeting in March 1970.

3.1 Membership.

a. The Commission shall consist of not fewer than five nor more than seven regular members, one of whom shall be an *ex officio* member of the Board of Selectmen and one of whom may be an *ex officio* member of the Planning Board. Not more than five alternate members may be appointed. *Ex officio* members from the Planning Board and the Board of Selectmen shall be appointed by their respective boards. All other regular and alternate members shall be appointed by the Board of Selectmen. 3-13-01

b. The qualifications and terms of Commission members, the organization, election and terms of its officers, and the scheduling of meetings shall be in accordance with the provisions of RSA Chapter 673 and any rules of procedure of the Commission not inconsistent with the State enabling statutes. At a minimum, in determining each member's qualifications, the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the Commission. 3-13-01

3.2 Powers and Duties.

a. The Commission shall have all the powers and duties vested in the Historic District Commissions under RSA Chapter 674 and 675.

b. The Commission shall adopt rules of procedure (to prescribe the method of conducting its business) and regulations (to provide design guidelines and standards of review) consistent with this ordinance and RSA Chapters 673, 674 and 676.

c. The Commission shall seek advice from such professional, educational, cultural, and other groups of persons that may be deemed necessary in the determination of a reasonable decision. The Commission shall have the power to engage such technical assistance and consultants as may be deemed necessary to carry out the purposes of this ordinance.

d. The Commission shall have the power to accept and use gifts, grants and contributions in the exercise of its function.

e. The Commission may conduct surveys of the buildings for the purposes of determining those of historic and/or architectural significance and pertinent facts about them, formulate recommendations concerning the preparation of maps, brochures and historic

markers for selected historic and/or architectural sites and buildings, cooperate with and advise the governing body, the Planning Board and other municipal agencies involving historic and/or architectural sites and buildings; advise owners of the buildings of the problems of preservation and restoration.

SECTION IV Certificate of Approval required

4.1 Certificates of Approval.

Except as provided herein, it shall be unlawful for any owner or person (including without limitation any municipal or governmental entity) to alter, construct, repair, move, demolish, or change the use of any structure or place located within the Historic District without applying for and receiving from the Commission a Certificate of Approval for such activity. Activities which require Certificates of Approval are intended to include, but not limited to, such activities as changing the architectural detail of exterior walls, replacement or modification of windows, ~~or~~ doors or siding, installation or removal of porches or fire escapes, roofing or chimney modification and installation of antennae or other appurtenances on or near the building exterior or similar activities for which a building or zoning permit are also intended to include, but not be limited to, such activities with regard to the balance of the site as regrading, paving, repaving, removal of mature trees, installation or removal of fences, retaining walls, signage, on-site lighting, commercial style trash receptacles, telecommunication towers, and similar activities but are not intended to include or prevent ordinary maintenance, repair or grounds keeping activities.

4.2 Certificate of Approval Application Procedure.

For purposes of Administration, the Certificate of Approval application procedure involving a structure or place in an Historic District may be combined with building permits which may be required under the Zoning Ordinance and/or Building Code. Materials required as part of a Certificate of Approval application include materials necessary for such building permits as may be required under the Zoning Ordinance and/or Building Code, plus such renderings, elevations, photographs or other materials as the Historic District Commission may specify to the Zoning Administrator as being necessary for their review and consideration.

4.3 Review by Historic District Commission

Prior to the issuance of a building permit for any exterior work or changes of use with respect to any property situated in an Historic District, the owner shall submit a Certificate of Approval application to the Historic District Commission for consideration. The Zoning Administrator may issue the building permit only following approval of that application by the Historic District Commission or as provided in RSA Chapter 676:8 and 676:9. In any case in which the Zoning Administrator is unclear as to the applicability of this ordinance to a particular case, he or she may consult with the Commission for an interpretation of the requirements of the Commission. Although the provisions of this section are not intended to impede the Zoning Administrator in ordering the correction of unsafe conditions of an emergency nature, he or she shall make every effort to coordinate his or her actions with the interests of the Commission by advising it of any such orders or actions and by involving the Commission in the review of building permits for corrective measures to the extent feasible and practical.

4.4 Personal Wireless Service Facilities.

Applications to erect personal wireless service facilities in an historic district shall be reviewed by the Commission pursuant to its own design guidelines and standards of review as well as to Article III, Section 3-16, Paragraph 7.5 of the Zoning Ordinance ("Personal Wireless Service Facilities: Historic Buildings and Districts"). 3-13-01

SECTION V Interpretation

Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within any Historic District nor to prevent the construction, alteration, repair, moving or demolition of any structure under a building permit issued by the Zoning Administrator, or any duly delegated authority, prior to the establishment of such district.

SECTION VI Matters to be considered in Passing Upon Appropriateness of Erection, Reconstruction or Restoration of Structures

The Historic District Commission or Board of Adjustment, on appeal, shall only consider exterior arrangement or features. The Historic District Commission or Board of Adjustment, on appeal, shall consider the following criteria in passing upon an application for a Certificate of Approval. For purposes of this section, *The Secretary of the Interior's Standards for Rehabilitation* are incorporated herein. 3-13-01

6.1 The special character of the area.

6.2 The historical and/or architectural value of the building/s, structure/s and its setting, and also as it relates to its setting and to the welfare of the community.

6.3 The compatibility of exterior design, arrangement, texture and materials proposed to be used in relationship to the existing building or structure and its setting or if new construction, to the surrounding area.

6.4 The general size and scale of new construction in relation to the existing surroundings including consideration of such factors as the building's overall height, width, street front, number of stories, type of roofs, facade, openings (windows and doors), and architectural details.

6.5 The economic activity of the building and the needs of that activity as it relates to the welfare of the community.

6.6 EXCEPTIONS: The Zoning Administrator is not required to forward the following applications to the Historic District Commission for their review, provided the proposed project complies with the stipulations specified:

- a. Ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, or outer appearance thereof; including

but not limited to maintenance and repair of firewalls, roofs, chimneys and temporary removal of shutters.

- b. Storm doors and storm windows providing that the original architectural features are not removed or destroyed.
- c. Painting or repainting of a building/s or structure/s in any color.

Section VII Enforcement

This ordinance shall be enforced in accordance with the provisions of Article VI of the Zoning Ordinance, and violators shall be subject to the penalty provisions contained therein.

Section VIII Remedies

In the case of any violation of this ordinance, or regulations adopted hereunder, the Commission, in addition to other remedies may institute any appropriate action or proceedings to prevent, restrain, correct or abate such violation.

Section IX Appeal

Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal concerning such decision to the Zoning Board of Adjustment. Upon appeal, the Zoning Board of Adjustment shall review the decision of the Historic District Commission to determine whether the decision conforms to the provisions under this ordinance and the rules of procedure and regulations adopted thereunder. 3-13-01

Section X Validity

If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section XI Effective Date

This ordinance shall take effect upon adoption. 3-11-86

Section 4-16 Planned Office Development (POD) 3-10-87 DELETED /310/98

Section 4-17 Northern Transitional Zone (NTR) 3-8-88

General The purpose of establishing the Northern Transitional Zone is as follows:

1. To recognize, establish, and affirm an area of the Town in which lower density development is of itself, desirable.
2. To recognize the unique scenic and natural character of a portion of Town which forms a natural entry to the Northern Rural Zone.
3. To ensure that future development in this area of Town be of a type that is compatible with the area's scenic and natural character.
4. That the Northern Transitional Zone shall be bounded by Horace Greeley Road on the North, NH Route 101 on the South, and Amherst Town line on the East. The Westerly boundary is the intersection of Horace Greeley Road and NH Route 101.

A. Permitted Uses

1. One-family dwelling and accessory buildings. 3-8-88
2. Farm, agricultural, or nursery use. 3-3-88
3. Roadside stand for the sale of farm products or nursery products. 4.
Home occupation. 3-8-88
5. Planned Residential Development - PRD - In order to achieve the purpose of this section, Planned Residential Development shall be encouraged as the principle method of future development of this zone. 3-8-88
6. Open Space Plan (See Article IX Definitions) 3-14-89
7. Amateur non-profit sports and recreation uses subject to obtaining Planning Board site approval which may provide at minimum for setbacks, buffers, sanitary facilities, parking and traffic impact. Uses involving motorized recreation vehicles are prohibited. Night lighting may be allowed by the Planning Board when more than 500 feet from any residential use but not after 9:00 p.m. 3-12-91
8. All family day care home facilities are subject to compliance with all current licensing procedures and all applicable health/safety Ordinances for the State of New Hampshire and the Town of Amherst. Family day care facilities are regulated by RSA 170-E:1, 170-E:2, 204-C:72, 161-G:4 and all other applicable State Laws. (3-12-91) 3-10-92
9. Other development-all development in this zone other than Planned Residential Development shall adhere to the following:

B. Area and Frontage Requirements

1. The minimum lot area for any permitted use shall be 3.5 acres.
2. Each lot shall have a minimum frontage of three hundred (300) feet on the principle route of access to the lot.

3. If frontage is provided by a Class A or Class B reduced frontage, thirty-five (35) feet of frontage on a publicly maintained road shall be sufficient for the lot or lots.

C. Yard Requirements

1. Each structure shall be set back at least fifty (50) feet from the front lot line, or at such a distance as shall conform to the line of existing buildings on that lot.

2. Each structure shall be set back at least thirty (30) feet from the side and rear lot lines. In the case of corner property, this distance shall be increased to fifty (50) feet on that side bordering a street, lane, or public way.

3. Any accessory structure shall be set back at least thirty (30) feet from the side and rear lot lines and at least fifty (50) feet from the front lot line and shall not exceed twenty-two feet in height. This requirement may be waived for farm structures. 3-8-88

D. Prohibited Uses

1. Aircraft landing fields. (3-10-98)

ARTICLE V

SPECIAL EXCEPTIONS

Section 5-1 General

Special exceptions as herein provided for shall be deemed to be permitted uses in their respective zones, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this Ordinance. All such cases are hereby declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case. 3-12-63

Section 5-2 Standards Applicable to All Special Exceptions

A. Conditions for Special Exceptions

Before the Board of Adjustment considers the approval of an application for a special exception, the applicant shall prove to the satisfaction of the Board of Adjustment that all the following conditions have been met:

1. That the property in question is in conformance with the dimensional requirements of the zone and that the use is compatible with the Amherst Master Plan.
2. That there is safe vehicular and pedestrian access to and from the site.
3. That there will be no significant adverse impacts resulting from the proposed use upon the public health, safety and general welfare of the neighborhood and of the Town of Amherst.
4. That the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or inappropriate lighting than the existing use of the property.
5. That the applicant describe in writing and on a scaled drawing, the location and size of the use, the nature and intensity of operations involved, the tract size, parking areas and other physical land features of the site in question.
6. That the proposed use will not adversely affect the ground water resources of Amherst, in particular the Aquifer Conservation District as defined in Section 4-13 of the Amherst Zoning Ordinance.

Response to each of the above conditions shall be provided in writing on forms available in the Amherst Zoning/Planning Office.

The Board of Adjustment may seek additional recommendations of the Amherst Planning Board. The applicant shall file a Non-Residential Site Plan Review application in accordance with Section "C" of the Amherst Zoning Ordinance with the Amherst Planning Board. 3-10-92

B. Conditions of Approval

The Board of Adjustment may attach such conditions to its approval as are reasonable, necessary and appropriate. All special exceptions users are hereby declared to have special characteristics that shall be considered on a case- by-case basis. To ensure compliance with the spirit of the Zoning Ordinance, such conditions shall not conflict with the review and approval of the Planning Board. 3-10-92

C. Limits on a Special Exception

Substantial construction, or occupancy if no construction is involved, must commence within one (1) year of the Board of Adjustment approval of the special exception. If construction or occupancy is not commenced within this period, the special exception approval is declared null and void. 3-10-92

Section 5-3 Permits for Special Exceptions

A permit for a special exception use shall not be issued by the Board of Selectmen or their duly appointed representative, the Administrative Official, until so directed by the Board of Adjustment who shall first be satisfied that all of the standards and conditions of this article and the Ordinance have been met. 3-12-63

Section 5-4 Uses permitted by Special Exception Residential/Rural

3-11-93

1. Religious purposes 3-12-63
2. Nursing Homes 3-12-63
3. Elderly Housing: Single or Multi unit residential developments which comply with the Federal Definition of Elderly Housing subject to the following: (3-14-89) (3-12-91) (3-11-03)
 - a. Each structure may be a single dwelling unit or a cluster of units containing from two (2) to twelve (12) dwelling units. 3-14-76 (3-11-03)
 - b. Tract density shall be a minimum of one-half acre for each dwelling unit, and the entire tract of land on which a development is situated shall contain not less than fifteen (15) acres. 3-4-75
 - c. If off-site drinking water is available and on-site soils are classified by the NHDES as Group I or II then the tract density in units shall be limited to a maximum of six (6) bedrooms per acre and the minimum tract size shall be reduced to seven and one-half (7.5) acres. (3-13-01) (3-11-03)
 - d. Ancillary facilities such as community meeting rooms, site management offices, and rooms for limited healthcare services are allowed. (3-13-01) (3-11-03)
 - e. No structure shall be constructed to a height greater than thirty-five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation. (3-4-75) 3-11-86 (3-11-03)
4. Accessory Apartment- A second dwelling unit incorporated within a existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit. 3-9-82 (3-10-98) 3-11-03

Section 5-5 Uses permitted by Special Exception Rural Zone
(eliminated 3-11-93)

Section 5-6 Uses permitted by Special Exception Commercial Zone

1. Outside recreation establishments exclusive of outdoor theaters. 3-2-76
2. Outside storage of equipment and materials, but not including junk yards. 3-2-76
3. Religious Uses 3-2-76
4. Private Schools 3-2-76
5. Hospitals, nursing homes and other similar uses 3-2-76
6. Accessory Apartment- A second dwelling unit incorporated within a existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit. 3-9-82 (3-10-98) (3-11-03)
7. Kennels 11-2-82

Section 5-7 Uses Permitted by Special Exception Northern Rural Zone

1. Religious purposes 3-2-76
2. Private schools 3-2-76
3. Hospitals, clinics, nursing homes, and other similar uses 3-2-76
4. Professional Offices 3-2-76
5. Funeral Homes 3-2-76
6. Sawmills (3-2-76) 3-9-82
7. Accessory Apartment- A second dwelling unit incorporated within a existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit. 3-9-82 (3-10-98) (3-11-03)
8. Kennels 11-2-82

Section 5-8 Uses Permitted by Special Exception Industrial Zone

1. Kennels. 11-2-82

2. Sexual Oriented Businesses (3-14-00)

I. Purpose and Intent

It is the purpose of this article to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the Town of Amherst and, it is the intent to promote the health, safety, and general welfare of the Citizens of the Town of Amherst and, it is the intent of this article that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of sexually orientated businesses; and, the provisions of this Article have neither the purpose nor the effect of imposing limitation or restriction on the content of any communicative materials, including sexually oriented materials; and, it is not the intent nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and, neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material. The nature of the proposed use shall not be sufficient grounds to support a finding that the use does not meet the criteria set forth in Section 5-2.

II. Definitions of Sexually Oriented Businesses

A sexually orientated business is any place of business at which any of the following activities is conducted:

A. Adult Bookstore or Adult Video Store — a commercial establishment that devotes more than 15% of the total display, shelf, rack, wall, table, stand or floor area, utilized for the display and sale of the following; The establishment, as one of its principal business purposes, offers for sale or rental any form of consideration, any one or more of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which depict or describe “specified sexual activities” or “specified anatomical areas” or meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1; or,
2. Instruments, devices or paraphernalia which are designed for use in connection with “sexual conduct” as defined in RSA 571-6:1, other than birth control devices. A commercial establishment may have other principal business purposes that do not involve the offerings for sale or rental of material depicting or describing “specified sexual conduct or activities” and still be categorized as “Adult Video/Book Store.” Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “Adult Video/Book Store” so long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe “specified sexual conduct or activities” or specified anatomical areas.”

a) Specified sexual conduct or activities — means the male genitals in a state of sexual arousal and/or vulva or more intimate parts of the female genitals.

b) Specified anatomical areas — means and includes any of the following:

- 1) The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
- 2) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
- 3) Masturbation, actual or simulated; or
- 4) Excretory function as part of or in connection with any of the activities set forth in (1) through (3) above.

AN ADULT BOOKSTORE OR ADULT VIDEO STORE DOES NOT INCLUDE AN ESTABLISHMENT THAT SELLS BOOKS OR PERIODICALS AS AN INCIDENTAL OR ACCESSORY PART OF ITS PRINCIPAL STOCK AND TRADE AND DOES NOT DEVOTE MORE THAN 15% OF THE TOTAL DISPLAY AREA OF THE ESTABLISHMENT TO THE SALE OF BOOKS AND PERIODICALS.

B. Adult Motion Picture Theatre — An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial

portion of the total presentation time is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1, for observation by patrons. For subsections C, D, E, F, G, a “substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than seven (7) days within any 56 consecutive day period.

C. Adult Motion Picture Arcade — Any place to which the Public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-6:1.

D. Adult Drive-In Theatre — An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

E. Adult Cabaret — A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1, and /or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

F. Adult Motel — A motel or similar establishment offering public accommodations of any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction or description of materials which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B:1.

G. Adult Theatre — A theatre, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of “harmful to minors” and/or “sexual conduct” as set forth in RSA 571-B: 1.

H. Nude Model Studio — A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts

of the female genitals and is observed sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571 -B:1.

I. Sexual Encounter Center — A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration:

(a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activities in (a) or (b) is characterized by an emphasis on activities which meets the definition of “harmful to minors” and/or “sexual conduct,” as set forth in RSA 571-B:1.

III. Allowed Locations and Location Restrictions of Sexually Oriented Businesses

Sexually oriented businesses, as defined above, shall be permitted only in the Industrial Zone, by Special Exception, provided that all other regulations, requirements, and restrictions for the zone in which the sexually oriented Business is to be located are met; and no sexually oriented business shall be permitted within 1,000 feet of another existing sexually oriented business or one r which a building permit has been applied for; and,

No sexually oriented business shall be permitted within 750 feet of any other zoning boundary.

No sexually oriented business shall be permitted within 750 feet of any church, place of worship, parish house, convent, public, parochial, or private school, kindergarten, State approved day care center or public sports/recreation parks; and no sexually oriented business shall be permitted within 750 feet of the Town boundaries; and,

No sexually oriented business shall be permitted within 1,000 feet of another existing sexually oriented business on the date of the passage of this article and, no sexually oriented business shall be permitted within a building, premise, structure or other facility that contains a sexually oriented business as defined in paragraphs A through I above.

The Zoning Board of Adjustment shall grant the Special Exception provided the applicant demonstrates facts sufficient to support a finding that the conditions for the granting of a Special Exception in section 5-2A have been met.

IV. Measure of Distance

The distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall or temporary or permanent physical divider between each of the businesses.

V. Additional Reasonable Regulations

The Planning Board is empowered hereunder to review and approve permit applications for sexually oriented businesses and impose reasonable restrictions for buffering, outdoor parking lighting, adequate ingress and egress from the site off of and onto public roads, pedestrian movement, and to provide for appropriate landscaping and building aesthetic in the “Non-Residential Site Plan Review Regulations of the Town of Amherst, New Hampshire,” and to avoid site development layout which may result in negative environmental impacts.

VI. Severability

The invalidity of any section or provision of this Article shall not invalidate any other section or provision thereof.

Section 5-9 Uses Permitted by Special Exception Limited Commercial Zone

1. Accessory Apartment- A second dwelling unit incorporated within a existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit. 3-9-82 (3-10-98) (3-11-03)

2. Religious purposes 3-8-88

3. Kennels (3-13-01)

Section 5-10 Uses Permitted by Special Exception Northern Transitional Zone

1. Religious purposes 3-14-89

2. Private Schools 3-14-89

3. Hospitals, Clinics, nursing homes, and other similar uses 3-14-89

4. Professional Offices 3-14-89

5. Funeral Homes 3-14-89

6. Sawmills 3-14-89

7. Accessory Apartment- A second dwelling unit incorporated within a existing or proposed single family home which is structurally integrated with direct access between it and the main living unit. The total area of the accessory apartment shall not exceed 800 square feet and shall consist of only one bedroom. Any changes to the total number of bedrooms per lot will require a new state approved septic plan to be placed on file with the Zoning Office prior to the issuance of a conversion/building permit. 3-9-82 (3-10-98) (3-11-03)

8. Kennels 3-14-89

NOTE:

Uses Permitted by Special Exception in the Flood Plain Conservation District was eliminated 11-2-82. See Section 4-10

Uses Permitted by Special Exception in the Wetland Conservation District was eliminated 3-12-85 See Section 4-11

Uses permitted by Special Exception in the Watershed Protection District was eliminated 3-12-85 See Section 4-12

ARTICLE VI

ADMINISTRATION

Section 6-1 Enforcement

This Ordinance shall be enforced by the Board of Selectmen and the Board of Selectmen is hereby given power and authority to enforce the provisions of this Ordinance. The Board of Selectmen is further empowered to confer upon an administrative official appointed by the Board of Selectmen, the duty of administering the provisions of this Ordinance. Upon any well founded information that this Ordinance is being violated, the Selectmen shall seek an injunction in Superior Court or shall take such other legal action as they deem appropriate. 3-12-63

Section 6-2 Building Permits, Certificates of Occupancy, Earth Removal Permits

A. Building Permits

1. No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the Selectmen or their authorized agents, the Building Inspector or Zoning Administrator, stating that the building or structure, and use of land comply with the regulations of this Ordinance and all building and health laws and Ordinances. 3-14-78
2. No permits shall be issued to any lot upon which there is outstanding a recorded violation of the rules, regulations or Ordinances of the Town of Amherst, excepting any permit required to correct such violation.

B. Certificate of Occupancy

1. No building or structure hereafter erected or structurally altered shall be occupied or used until a certificate has been issued by the Selectmen, or their authorized agents, the Building Inspector or Zoning Administrator. The certificate shall be issued only after the Building Inspector or Zoning Administrator makes a finding that the building or structure has been constructed, arranged, or structurally altered or is to be used in conformance with the provisions of this Ordinance and all other health, safety and building laws, including but not limited to a requirement that the site be serviced by all necessary utilities including municipal water (or that water certified as satisfactory is available if municipal water is not provided) and that construction be in accordance with all

representations made as part of the application for and granting of the building permit. 3-14-78

2. Certificates of Occupancy for new structures shall not be issued unless two (2) copies of a plot plan (survey) are filed with the Building Official, prepared by a Licensed Land Surveyor certifying the following information:

a. Boundary markers are found or set at least at the four principle corners of the lot, or at least three points or angles for lots so configured. Metal pins are acceptable in bituminous concrete paving. If the lot is greater than ten (10) acres and no portion of the perimeter property line is closer than five (5) times the minimum zoning setback distance from the building/s on it, then the requirements to set markers noted above is waived, however all other provisions of this Ordinance shall be required.

b. Location to scale on the lot of the building/s, well/s, septic system/s, driveway/s. The plot plan shall include dimensions, taken from two corners of the structure, or other permanent location points, to the main cleanout on the septic tank, to the distribution box, and to the two (2) closest corners of the leach field, 3-12-85

c. A statement that the building/s conform to the setbacks of the District where located. 3-11-93

Scale of the plot plan to be 1"=100' if the entire lot will not fit on 17" x 22" paper. Boundary markers shall be of granite, concrete or drill holes in granite or durable ledge. Offset markers may be used where natural or historical obstruction occurs. 3-9-82

C. Uses and Certificate of Occupancy

No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, nor shall any use of a building or land be undertaken, without a Certificate of Occupancy having first been issued by the Selectmen, or their authorized agents, the Building Inspector or Zoning Administrator. No such certificate shall be issued to make such change or undertake such use unless it is in conformity with the provisions of this Ordinance or amendments thereto hereafter duly enacted. 3-14-78

D. Earth Material Removal

No earth material as defined in Section 3-8 hereof shall be removed unless a permit has been applied for and obtained in a fashion consistent with the provisions of Section 3-8 hereof. 3-14-78

E. The Board of Selectmen,

or the Administrative Official, may require of any applicant for a permit such sketches, drawings, plot plans or other material as are deemed necessary to make a decision as to compliance with the provisions of this Ordinance. They may require plans, details, specifications for new structures to have been prepared, or sealed, by a licensed architect or engineer. (3-12-63) 3-13-84

F. If an applicants

requests a permit to undertake an activity on a lot not conforming in size and frontage as otherwise required by this Ordinance and is making application under Article IV, Section 4-2 of this Ordinance, such applicant shall file as part of his application, the date of the recording and the Registry of Deeds reference number of the recording of the non-conforming lot. 3-12-63

G. The Administrative Official

shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget. 3-6-73

H. All permits issued under

the provision of this Ordinance shall expire and become invalid two years from the date of issuance of the permit. 3-14-78

Effective this date, all residential site plans approved by the Planning Board shall expire four (4) years from the date of Planning Board approval. This expiration date shall not apply to plats that are exempt or vested because of the operation of RSA 674:39. 3-14-89

I.

1. Upon receipt of the application for a permit with sufficient information to clearly establish the nature and extent of the proposed activity the Administrative Official shall determine whether the proposed activity or use constitutes a permitted use within the provisions of this Ordinance or whether a special exception or a variance is required. 3-14-78

2. If the proposed use requires a special exception or a variance, the Administrative Official shall refer the application for permit to the Board of Adjustment for action. 3-14-78

3. If the proposed use or activity is within the provisions of this Ordinance, the Administrative Official shall post a notice in two public places in the Town of Amherst, one of which shall be at the Town Hall and no permit shall be issued until said notice has been posted for a period of seven (7) days. If during that period the Administrative Official received objection to the issuance of the requested permit, he may issue the permit, refer the application to the Board of Adjustment for action, or deny the permit. 3-14-78

J. Consistent with State Statues,

Public utility structures proposed for the Town of Amherst shall obtain building permits and meet zoning requirements. 3-13-84

Section 6-3 Board of Adjustment

A. Establishment

In accordance with the provisions of the New Hampshire Revised Statutes Annotated 1955, Chapter 673 as amended and as hereinafter provided, a Board of Adjustment is established. 3-12-63

B. Organization

1. The Board of Adjustment shall consist of five members who shall not hold any other elective office or position under the municipality. 3-12-63
2. The members of the Board of Adjustment shall be elected at the annual Town Meeting. 3-5-74, 3-12-96
3. DELETED (3-10-98)
4. In the case of death or resignation of a member of the Board of Adjustment, the moderator, with the approval of the Board of Selectmen, shall appoint an interim member to serve on the Board of Adjustment until the next following Town Meeting, at which Town Meeting a member will be elected as in B-2 to serve the balance of the unexpired term of the member who has become deceased or resigned. 3-5-74 (3-11-97)
5. Each member of the Board shall hold office until his successor is qualified, unless sooner removed. 3-12-63 (3-11-97)
6. Members of the Board of Adjustment shall serve without compensation. 3-12-63

C. Powers

The Board of Adjustment shall perform all the duties and have all the powers provided by the New Hampshire Revised Statutes Annotated 1955 as Amended and as hereinafter provided. 3-12-63

D. Meetings

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. 3-12-63

The Board shall keep a record of proceedings showing the vote upon every question. 3-12-63

Every rule or regulation, and every order, requirement, decision or determination of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall become a public record. 3-12-63

The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative office, or to decide in favor of the appellant, or to decide any matter upon which it is required to pass, or to effect any variance from the strict application of provisions of this Ordinance. 3-12-63

All applications shall be acted upon within ninety days after the date of filing the application or within 90 days of the date of filing of any additional information requested by the Board but no later than 6 months after the date of filing; provided, however, when additional information is not furnished within a reasonable time, the Board may, on notice to the applicant, deny the application without prejudice to the right to refile. When an application is denied on the merits, the application may not be refiled for a period of one year after the date of denial. 3-6-73

E. Procedure on Permits for Special Exceptions, Variances and Appeals of Administrative Decisions

1. The Board of Adjustment shall not authorize the issuance of a permit until after a hearing on the application is held.
2. Upon receipt from the Administrative Official of an application for a special exception, variance, or appeal of an administrative decision, the Board of Adjustment shall hold a public hearing. 3-12-91

Notice thereof shall be given as follows:

- a) The applicant and all of the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be mailed not less than five days before the date fixed for the hearing of the appeal.

- b) A public notice of the hearing shall be published in a newspaper of the general circulation in the area, not less than five (5) days before the date fixed for the hearing of the appeal.
- c) The public hearing shall be held within thirty (30) days of the receipt of the notice of the appeal.
- d) Any party may appear in person or by his agent or attorney at the hearing of an appeal.
- e) The cost of advertising and costs of mailing the notices of hearing shall be payable by the person making the appeal prior to the hearing. 3-9-82

F. Conditions for the Granting of a Variance 3-10-64

1. Every variance granted by the Board of Adjustment shall be based upon and accompanied by a specific finding or findings, supported by evidence produced at the hearing that:

- a) There are several circumstances or conditions, fully described in the findings applying to the land or buildings that do not apply generally to land or buildings in the neighborhood. 3-12-63
- b) Said circumstances or conditions are such that the strict application of the provisions of the Ordinance would deprive the applicant of the reasonable use of the land or building and would result in unnecessary hardship. 3-12-63
- c) For reasons set forth in the findings granting of the variance would be of benefit to the public interest, would promote the reasonable use of the land or building and that the variance granted by the Board of Adjustment is the minimum variance that will accomplish this purpose. 3-12-63

G. Time Limits of Special Exceptions and Variances

If, after a permit has been authorized by the Board of Adjustment as a result of a request for a Special Exception or Variance, such permit has not been obtained within one year from the date of such authorization, then such authorization shall become null and void, and no permit shall be issued thereunder. (3-4-75) 3-9-82

H. Appeal from Order of the Board of Adjustment

Within twenty (20) days after any order or decision handed down by the Board of Adjustment, any party to the action or proceedings of the Board of Adjustment, or any person directly affected thereby, may move for a re-hearing and thereafter, if necessary, appeal by petition to the Superior Court in accordance with the provisions of the laws of the State of New Hampshire and may pursue such remedies as are therein provided for said party. 3-12-63

I. Rules of Procedure

The Board of Adjustment shall adopt and promulgate rules of procedure for the guidance of all persons having business before the Board of Adjustment. Said rules shall not be inconsistent with the provisions of the Statutes of the State of New Hampshire nor with the provisions of this Ordinance. 3-12-63

J. Authorize Temporary Uses (deleted 3-12-91)

Section 6-4 Costs

Any person appearing before the Zoning Board of Adjustment may be represented by counsel, but the costs of retaining such counsel shall be borne by the party retaining them, and not by the Town of Amherst. 3-12-63

Section 6-5 Existing Ordinances

All existing ordinances or parts thereof inconsistent with the provisions of this ordinance are repealed upon passage of this ordinance. 3-12-63

Section 6-6 Severability Clause

If any section, subsection, sentence, clause, phrase or other part of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. 3-12-63

Section 6-7 Governmental Services

No provision of this Ordinance shall be interpreted as to prevent the Town of Amherst from providing for or performing any existing or necessary governmental, education, or protective services. 3-12-63

Section 6-8 Penalty

In accordance with RSA 676:17, as amended, any person, firm, or corporation violating the provisions of this Ordinance is punishable by a civil fine of up to \$100 (One hundred dollars) per day, for every day after the conviction date that the violation continues, or after the date on which the violator received written notice from the municipality that is in violation, whichever date is earlier. 3-11-86

ARTICLE VII

AMENDMENTS TO THE ZONING ORDINANCE

Section 7-1 General

This Ordinance may be amended in conformance with the New Hampshire State Statutes. 3-12-63

This Ordinance is intended to be consistent with NHRSA enabling legislation and to the extent that any portion hereof is or shall become inconsistent with said enabling legislation this Ordinance shall be invalid to that extent. 3-5-74

Section 7-2 Referral of Amendments to Planning Board

Upon the petition of twenty-five voters for an amendment to the Zoning Ordinance, the Planning Board shall proceed and submit the amendment or amendments to the Voters of the Town as prescribed in RSA 675:4. The Planning Board may not reject the amendment or amendments proposed by petition but shall submit the proposed amendment or amendments to the voters as offered by the petition. The petitioners shall submit the proposed amendment or amendments to the Zoning Ordinance in correct form as determined by the Selectmen. The following question shall be submitted to the voters: " Are you in favor of the adoption of the amendment to the Zoning Ordinance as proposed by petition of the voters of this Town ?". The approval or disapproval of the Planning Board shall also be noted on the ballot immediately following the question. In the event that there shall be more than a single proposed amendment to be submitted to the voters at any given meeting, the issue as to the several amendments shall be put in the following manner: "Are you in favor of the adoption of Amendment No..... as proposed by petition of the voters for this Town?". (Here insert topical description of substance of amendment.) The approval or disapproval of the Planning Board shall also be noted on the ballot immediately following the question. An amendment proposed by petition shall be submitted to the voters at an annual Town or Village District meeting. 11-2-82

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8-1 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held as the minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or Ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 8-2 Short Title

This Ordinance shall be known and may be cited as "The Town of Amherst Zoning Ordinance of 1963".

Section 8-3 Effective Date

This Ordinance shall take effect immediately upon adoption.

Section 8-4 Impact Fees 3-8-88

To incorporate in the Zoning Ordinance the means for the formulation and implementation of impact fees by the Planning Board.

PURPOSE Land development in the Town of Amherst generates certain increases in the cost of providing capital facilities and Town services. A system of impact fees and dedication requirements is intended to recover a fair share of the cost associated with the development and to expend the funds on specific dedicated capital improvements, Town services, and environmental maintenance and protection, public health and welfare, safety, recreation, education and mobility.

1. Land development and redevelopment shall not be permitted unless adequate capital facilities and services exist or are ensured to support the development.
2. Land development and redevelopment shall bear a proportionate share of the costs of the provision of new or expanded capital facilities and services.

3. The imposition of impact fees and dedication requirements are the preferred methods of ensuring that land development and redevelopment bear a proportionate share of the cost of capital facilities and Town services necessary to accommodate or support the development or redevelopment.

4. Impact fees and dedication requirements shall be based on functional standards that define the provision of various kinds of capital facilities and services to be provided through the impact fees and dedication requirements. Standards may be developed to provide for the following capital facilities and services and others as may be necessary:

Water Resources	Roads
Waste Disposal	Drainage
Parks & Recreation	Conservation Land
Fire & Police Protection	Emergency Services
Public Cemeteries	Libraries
Transportation Facilities	Public Buildings & Housing
Capital Equipment	Schools & Educational Facilities

All standards shall reflect the existing conditions, nature, levels of service, and character of the Town of Amherst as defined in the Master Plan and updated by the Planning Board.

5. All improvements in capital facilities and services affected by the imposition of impact fees and dedication requirements shall be defined in the Master Plan and scheduled in the Capital Improvements Program of the Town of Amherst or the amendments thereto.

6. The provisions for the development, implementation, and administration of impact fees and dedication requirements, and amendments as may be required, from time to time, shall be prepared by the Planning Board and instituted as subdivision regulations of the Town of Amherst. Impact fees and dedication requirements shall be calculated by the Planning Board and Zoning Administrator as elements of the subdivision process and administered by the Board of Selectmen or their designee.

7. Fees collected under this Ordinance shall be held in dedicated capital accounts and expended only for the purposes of the fee imposition and in accordance with the Master Plan, the capital improvements program or other authorization of the Town. Fees must be expended on a timely basis.

DEFINITION: Capital Facilities and Services All facilities, equipment and services provided by the Town of Amherst as necessary to support the functions of government and to provide for environmental maintenance and protection, public health, education, safety and welfare, mobility, recreation, and intergovernmental cooperation. 3-8-88

Section 8-5 Affordable Housing 3-14-89

Innovative Land Use Control for Affordable Housing (see pages C5 thru C-8)

PURPOSE The Town recognizes the importance and benefit to the community and its citizens in the establishment and encouragement of suitable opportunities for affordable housing. The Town also recognizes that frequently, property that may be suitable as a location for affordable housing fails to meet some of the objective criteria that govern land use, and that strict adherence to all Zoning and Subdivision requirements may render the project economically unfeasible. The Town also recognizes that there are some situations in which normal Zoning or Subdivision requirements can be waived without necessarily sacrificing public health, safety and welfare so long as proper safeguards are maintained. Accordingly, it has been deemed advisable to adopt an innovative land use control in accordance with RSA 674:21 which would permit the Planning Board to identify a project that is a suitable candidate for the waiver of requirements, and when so identified, that project would be required to meet less stringent standards, provided certain criteria were met.

IDENTIFICATION OF SUITABLE PROJECT The Planning Board may review an application to construct affordable housing and identify the same as a suitable project if the applicant demonstrates to the Planning Board that the project meets the following criteria:

1. The project shall be constructed in a manner that is harmonious with neighboring developments, housing, and natural surroundings.
2. The project shall not detract from either the ecological or visual qualities of the environment.
3. The housing proposal shall be affordable within the meaning of the Ordinance.
4. The project shall comply with all site plan and/or subdivision regulations that apply, other than those waived hereunder.
5. Where there is no existing dwelling, the net tract area (total parcel minus wetlands) shall be at least four (4) acres and not more than fifteen (15) acres, except in the Northern Rural Zone, the net tract area shall be at least ten (10) acres but not more than twenty (20) acres. 3-12-91, 3-9-99
6. Where there is an existing dwelling, the net tract area (total parcel minus wetlands) shall be at least sufficient to provide a conforming conventional sized lot for the existing dwelling and the maximum net tract area shall be as listed above. 3-12-91
7. If an existing dwelling is located on the site and sufficient evidence is presented to the Planning Board to show that the existing dwelling is affordable within the

meaning of this ordinance, than No. 6 shall not apply to that existing dwelling. (3-10-98)

ZONING STANDARDS Once the Planning Board has designated a proposed project as affordable and indicated that the same is satisfactory and compliant with the above standards, that project may be located on any suitable property irrespective of the zoning district classification.

Maximum number of units approved in a calendar year shall not exceed one percent (1%) of the number of dwelling units existing in Town in the preceding calendar year. This figure shall be determined each January.

LOT SIZE, DENSITY, SETBACKS, AND OPEN SPACE The traditional lot size, density, setback, and open space requirements applicable in other districts shall not apply and the Planning Board shall establish the lot size, density, setbacks, and open space requirements for each project as they determine to be necessary in the best interest of the Town and to facilitate the project, provided however, that the following limitations shall apply:

1. Lot size and density shall be not less than three quarters (3/4) of an acre for a detached single family unit and not more than two units per acre for multi-family housing, except in the Northern Rural Zone where the minimum lot size for a detached single family unit would be two (2) acres and no more than one unit per acre for multi-family housing.
2. Open space shall be sufficient to accommodate the needs of the proposed occupants of the project.
3. Setbacks shall be sufficient to buffer and protect adjacent properties and the street from encroachment.
4. No structure shall be constructed to a height greater than thirty five (35) feet, exclusive of chimneys or cupolas, measured from the lowest adjacent exterior elevation.
5. The maximum unit size shall not exceed 1,300 square feet of heated living space, excluding basement areas. This provision shall remain with the development for a period of ten years from the date of the first certificate of occupancy. 3-12-02

RULES AND REGULATIONS The Planning Board may adopt appropriate rules and regulations to implement the review process contemplated hereunder. Such rules shall at a minimum provide for the developer to restrict the sale or lease of the units through appropriate recorded covenants to those who qualify pursuant to the definition of affordable housing contained in this Ordinance.

DEFINITION Affordable Housing shall be a residential dwelling unit available for sale or lease at a cost not to exceed the amount a household or family, whose gross annual income is one hundred percent (100%) or less of the median income. Median income is the amount defined by the U.S. Census for the Nashua Primary Metropolitan Statistical Area as updated yearly. Median income figures, adjusted for number of occupants, shall be determined annually by the Planning Board. 3-14-89 (3-10-98)

NOTE: See Non-Residential Site Review Regulations for Project Suitability Procedure Regulations. Affordable Housing.

ARTICLE IX

DEFINITIONS

Section 9-1 Meaning of Certain Words

The following terms, unless specifically indicated to the contrary in the Ordinance, shall mean the following:

Abutter Any person or persons holding legal title to land which adjoins or is directly across the street or stream from land under consideration. (3-12-63) 3-9-82

Accessory Building A detached building on the same lot with the primary building, the use of which is clearly incidental to that of the primary building or use of the land. 3-12-63

Administrative Official The person delegated by the Board of Selectmen to administer the provisions of this Ordinance. 3-12-63

Apartment A room or set of rooms arranged for occupancy as a dwelling and containing a kitchen or cooking range. 3-14-89

Aquifer A geologic unit capable of yielding usable amounts of water. 3-13-84

Building Any structure that has a roof and is intended to shelter people, animals or chattel. 3-12-63

Buffer An upland area immediately adjacent to a jurisdictional wetland or body of water, usually specified by a setback distance from the edge, that server to filter surface water flowing into the wetland or body of water. (3-13-01)

Cabin A building used or rented for the purpose of overnight sleeping accommodations, generally on a transient basis. 3-12-63

Driveway A private lane from the public road traversing private property, ordinarily leading to a single residence. 3-10-87

Dwelling A structure that is designed or used as a place of residence for one families. 3-12-63

Dwelling Unit A structure or part of a structure used as a place of residence for one family. 3-12-63

Family One or more persons who live as a single housekeeping unit in a dwelling unit. 3-12-63

Flashing Sign Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity or color at all times when in use including any revolving illuminated sign. 3-6-73

Floodway The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. 9-22-79

Floor Area Ratio The ratio of gross floor area to the total lot area. 3-4-75

Frontage is the marginal line between a road, street, highway, and the abutting property. Frontage is established when subdividing by providing either 200 feet or 300 feet along a publicly maintained road, or by providing 35 feet a reduced frontage (where permitted), along a publicly maintained road. (11-2-82) 3-10-87

Garage Type Sales limited to a maximum of ten (10) days a year. The sum of the horizontal area of the several floors of a building and its accessory buildings on the same lot, measured from the exterior faces of the walls, and not including cellars, attics, porches, etc. not used as part of the principle use. 3-4-73

Hazardous or Toxic Material or Liquids Materials or liquids that pose a threat, present or future, to the environment, whether in use, storage or transit, including without exception hazardous waste identified and listed in accordance with section 3001 of the Resource Conservation and Recovery Act of 1976, and as may be amended from time to time. 3-13-84

Home Occupation - A home occupation is an accessory non-retail business or professional use incidental and subordinate to the dwelling use, occupying no more than 20% of the existing gross, heated floor area of the dwelling.
(As amended 3-2-80, 11-2-82) 3-10-92 3-11-93 3-8-94 3-14-95

Hotel/Motel Structure/s which provide transients with temporary sleeping accommodations and do not include individual units which provide housekeeping accommodations in more than 10% of the units.

House Trailer A unit similar to a mobile home which is equipped with some or all of the following: running water, sanitary facilities, bath facilities, and toilet. 3-12-68

Inn A structure intended or designed to be used or which is used for sleeping purposes or paying guests and where a general kitchen and/or dining room may or may not be provided. 3-12-63

Kennel Any lot or premises on which four (4) or more dogs, other than personal pets, at least four (4) months of age, are kept, boarded, or trained whether in special structures or runways or not. The foregoing definition shall specifically exclude veterinary clinics which are defined as a structure in which small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment only. 11-2-82

Lot A tract of land occupied or capable of being occupied by a building or use and by accessory uses, including the open space provided for in this Ordinance. 3-12-63

Lot of Record A distinct tract of land recorded in a legal deed and plan filed in the records of Hillsborough County, New Hampshire. 3-12-63

Minimal Impact Crossing Minimal impact means the least environmentally damaging practicable alternative.

Mixed Use Development Any proposed or existing commercial development may have incorporated, a mixed use factor, consisting of residential units up to a maximum of twenty-five (25%) percent of the approved gross square footage of the commercial development. The residential units may be either attached or detached from the commercial structure/s and may have a maximum of one bedroom per five hundred (500) square feet of gross residential floor area. Such proposals are subject to Planning Board site review and all applicable health and safety requirements. 3-14-89

Mobile Home A dwelling accommodation designed to permit movement as a vehicle with or without wheels or skids in place and which is equipped with running water, sanitary facilities, bath facilities and toilet.

Multi Family Housing A structure or parcel of land containing more than one dwelling unit. 3-13-90

Non-Conforming Use A structure or land area that is lawfully occupied by a use that does not conform to the specifications of this Ordinance. 3-12-63

Open Space – As stated in Article IV, the Commercial, Limited Commercial and Industrial Zone shall not be utilized for construction, storage or parking/drives. (3-13-01)

Open Space Development Eliminated 11-2-82 3-14-89

Open Space Plan

PURPOSE To provide for an alternative single-family development plan that would provide areas of open space, reduce the amount of road maintained by the Town, allow a predictable rate of development, and keep the integrity of existing zone densities intact.

DENSITY: The basic number of lots allowed per parcel:

Option A: The basic number of lots is the same as would be obtainable for a conventional subdivision of the same parcel using the existing Town Zoning and Subdivision Regulations and having public roads. The applicant shall provide the Planning Board with a Preliminary Plan of the parcel to establish the basic number of lots.

Option B: The basic number of lots is the same as would be obtainable for a conventional subdivision of the same parcel using the existing Town Zoning and Subdivision Regulations and having private roads. The land area used for the private roads may be divided by the minimum lot area and the resulting number is to be added to the basic number of lots. The applicant shall provide the Planning Board with a Preliminary Plan of the parcel including the area of land used for private roads to establish the basic number of lots.

Minimum Parcel Area: 10 acres in the Residential/Rural Zones. 25 acres in the Northern Rural and Northern Transitional Zones

Minimum Lot Area:

40,000 square feet in the Residential/ Rural, Northern Rural, and Northern Transitional Zones. In the Northern Rural and Northern Transitional Zones, the average minimum lot area shall be 80,000 square feet, with a maximum lot area of five acres allowed for purpose of calculating the average minimum lot area.

Minimum Lot Frontage and Width: 100 feet at the edge of the road right-of-way with a width of 150 feet at the front structure setback line in the Residential and Rural Zones. 150 feet at the edge of the road right-of-way with a width of 200 feet at the front structure setback line in the Northern Rural and Northern Transitional Zones. No Class A or Class B reduced frontage lots shall be allowed in an Open Space Plan.

Front Structure Setback: 100 feet from existing Town roads and 75 feet from proposed roads in the Residential and Rural Zones, 300 feet from existing Town roads and 75 feet from proposed roads in the Northern Rural and Northern Transitional Zones.

Side and Rear Structure Setback: 30 feet in the Residential and Rural Zones. 40 feet in the Northern Rural and Northern Transitional Zones.

Cul-de-sac Turnaround Lot Frontage: 75 feet at the edge of the road right-of-way.

Slopes and Wetlands: No wetlands or slopes over 25% will be used to compute the minimum lot area. No dwelling will be constructed on slopes over 15%.

Number of Lots Per Minor Dead End Cul-de-sac: Twelve (12)

Open Space: The open space shall be of a shape and size to be of value as land suitable for outdoor non-commercial recreation and conservation. No open space will be disturbed or developed except with the approval of the Planning Board. The minimum area shall be the basic number of lots times 0.75 in the Residential and Rural Zones and time 2.0 in the Northern Rural and Northern Transitional Zones. Open space shall be permanently restricted from further subdivision as building lots. 3-13-90

Phasing: The Open Space Plan shall have a reasonable phasing plan based on the Town of Amherst Master Plan and Capital Improvements Plan and be defined in a maximum number of dwellings constructed (Building Permits) each twelve (12) month period commencing with the date of the first permit.

Minor Dead End Cul-de-sac. A road that does not carry traffic from other roads.

Major Dead End Cul-de-sac. A road that may carry traffic from other roads to existing Town roads.

Private Road. A road constructed to the Town of Amherst Subdivision Standards but that may have a reduced width right-of-way and roadway surface. The Planning Board shall require adequate covenants, restrictions, and agreements including a Home Owners Association to insure that the Town will have no liability or responsibility to maintain said road.

Public Water Protection Wetlands Wetlands identified in Section 4-11 for their critical role in protecting water supplies.

Turnaround. The end area of a cul-de-sac used to reverse direction. 3-14-89

Parking Space. An off-street space available for the parking of one motor vehicle and have an area of not less than 9' x 18' not including the driveways and passageways appurtenant thereto and giving access thereto and having direct access to a public way. (3-12-63) 3-12-85.

Planned Residential Development (PRD) 11-2-82

PURPOSE: Planned Residential Development allows an alternative pattern of land development to the pattern permitted in the Residential/Rural, Northern Rural, Northern Transitional and Commercial Zones. It is intended to encourage the preservation of open space and, at the same time, provide for a greater variety of housing types and affordability in the Town of Amherst at somewhat greater densities than permitted elsewhere in the Zoning Ordinance, without causing a significant increase in the town-wide population density. It is envisioned that in a PRD, dwelling units will be constructed in clusters which are harmonious with neighborhood developments and housing, and with natural surroundings. These clusters shall detract neither from the ecological and visual qualities of the

environment, nor from the value of the neighborhood, environment, or the Town. The PRD should contain a variety of housing types to accommodate the Master Plan purposes of encouraging a diversity of people, a variety of age groups of different interests, backgrounds, and economic levels. The overall site design and amenities should enhance the quality of living for the residents of the development and, in general, the neighborhood and the Town. The Board shall determine whether the proposed PRD, namely the site plan or layout, and number, type, and design of the proposed housing is suitable to the neighborhood within which it is to be located and is consistent with the Master Plan and its reasonable growth objectives. 3-14-89

CONDITIONS:

An applicant for approval of a proposed PRD shall make application to the Planning Board in the same fashion as specified in the Subdivision Regulations. In the course of review of the proposal by the Planning Board, the Board shall hear evidence presented by the applicant and determine whether, in its judgment, the proposal meets the objectives and purpose set forth above, in which event the Board may grant approval to the proposal subject to such reasonable conditions and limitations as it shall deem appropriate.

MINIMUM LOT AREA:

Planned Residential Developments may be permitted on single or adjacent tracts - of land, under one ownership, or to be brought under one ownership, which have a net tract area of no less than twenty (20) buildable, non-wetland acres in the Residential/Rural, and Commercial Zones, and thirty (30) buildable, non-wetland acres in the Northern Rural Zone, and twenty-five (25) buildable, non-wetland acres in the Northern Transitional Zone. Net tract area shall mean the total area of the tract or tracts less the area in the Wetlands Conservation District, Flood plain Conservation District, areas of slope equal to or greater than 25%, and soils with severe limitations as defined by the United States Department of Agriculture Soils Survey Interpretation Sheets of 1973, 1975 or 1976. On-site determination of soil types may be conducted at the request of the Board by an agent of the Hillsborough County Soil Conservation Service or a qualified soils scientist approved by the Town of Amherst. Only soils with slight or moderate limitations shall be included in the net tract area. PRDs may be built only on the net tract area. 3-14-89
(3-12-02)

DENSITIES:

In a Planned Residential Development, density shall be determined by the following methods. In the Residential/Rural, and Commercial Zones, divide the net tract area by two (2) and multiply the result by four (4) if soils are of slight

limitation, or three (3) if more than 50% of the net tract area is of moderate limitation. 3-10-87

In the Northern Rural Zone, divide the net tract area by 3.75 if more than 50% of the net tract area is classified as slight (multiply by four); or by 4.25 if more than 50% of the net tract area is classified as moderate (multiply by three). 3-10-87

In the Northern Transitional Zone, divide the net tract area by 2.88 if more than 50% of the net tract area soil is classified as slight (multiply by 4); or by 3.13 if more than 50% of the net tract area soil is classified as moderate (multiply by 3). 3-14-89

The result of these calculations shall be a number of bedrooms permitted in the entire development. "If bonuses, as explained below, are granted, the total number of bedrooms shall not exceed one and one-half the number of bedrooms calculated above. The number of bedrooms permitted in any PRD shall be determined by the Board to assure compliance with the purpose of PRD and shall not exceed the limit determined above. 3-10-87

For the purpose of this Ordinance, a bedroom may mean any room other than a kitchen, bathroom, living, or small utility room. In the review of the floor plan or plans, the Board, when appropriate, may deem floor space shown on said plans to constitute the number of bedrooms which could be reasonably built in that space, as opposed to the number of bedrooms shown. The Board may designate a room not to be a bedroom if it is clear that its use as a bedroom is unlikely in view of the layout of the unit or overall character of the PRD. The number of said bedrooms that shall be permitted in any one of the units proposed shall be fixed by the Board before the approval of the Final Review. The Board shall also approve the external architectural design of the PRD to ensure its compliance with the goals of this Ordinance as stated in the section on PURPOSE. The number of bedrooms permitted in the PRD shall be noted on the Final Plat. 3-13-84

All of the above notwithstanding, the total number of dwelling units within the PRD shall not exceed the total number of acres calculated as the net tract area. 3-10-87

PERMITTED USES:

There may permitted in any PRD, single family detached and single family attached, and multi-unit structures of any type without regard to dwelling unit configuration or form of ownership. It is envisioned that the housing types, while having different internal configurations, will have an external appearance that complements and is in general harmony with the natural surroundings of the PRD. Up to 10% of the dwelling units may be mobile homes. The maximum height of any dwelling structure shall be thirty-five (35) feet, exclusive of chimneys or

cupolas, measured from the lowest adjacent exterior elevation. For the purposes of this Ordinance, the following definitions shall apply:

Single Family Detached Dwelling Unit - any building designed for and occupied by not more than one family and which is not attached to any other dwelling unit by any means.

Single Family Attached Dwelling Unit - a single family dwelling attached to one other single family dwelling by a common vertical wall.

Multi-unit Structure - a building which contains from three (3) to six (6) dwelling units.

The Board shall determine the mix of housing types, number of dwelling units and structures, and the number of bedrooms for each dwelling unit. These shall be determined at the Final Review and be noted on the Final Plat.

OPEN SPACE:

All land in the PRD which is not covered by buildings, septic systems, wells, paved areas, service areas, or which is not set aside as private yards, patios, or gardens for the residents shall be treated as open space. The area of the open space shall be at least 40% of the total area of the PRD tract. Such land shall have a shape dimension, character, and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by at least all the residents of the PRD.

Provisions shall be made for the open space to be held in common, equally, by all the owners of the PRD. Such provision shall further hold that all the open space shall be readily accessible to all the residents of the PRD and that such open space shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation, or park. No building or construction whether it be structures or septic systems shall take place in the open space. Harvesting of trees in the open space is permitted if it is done according to good forestry practice and with the expressed permission of the Planning Board. 3-13-84

BONUSES: 3-10-98

The Board shall review the proposed PRD and consider the extent to which it meets or addresses the objectives set forth in this ordinance and may, in its judgment, grant density bonuses not to exceed those indicated below.

Item	Maximum % Increase in Density
Recreation Facilities	5%

Phasing	5 Years - 10% 10 Years - 20%
Conservation	5% for each 5% of net tract area places in conservation easement and/or set aside for trails to integrate with the Town trail system as determined by the Conservation Commission.
Low and Moderate Cost Housing	30% if between 20% and 40% of the total number of bedrooms which are located with dwelling units which are low to moderate cost housing.
Bedroom Count	40% if the units are of one or two bedrooms (3-13-01)

ARCHITECTURAL DESIGN:

As a condition of final approval, the applicant must obtain the Board's approval of the external architectural design of the PRD to ensure that it complies with the goals of harmonious existence with the neighborhood and the environment as stated in the paragraph on PURPOSE at the beginning of this Ordinance. The approval of the architectural design shall be a part of the Final Review approval.

LIMITATION OF SUBDIVISION:

No lot shown on a plan for which a permit is granted under this Ordinance may be further subdivided and a note to this effect shall be placed on the Final Plan.

OTHER PROVISIONS:

If lots are to be created within the PRD, then such individual lots shall be a minimum of 3/4 acres if on-site well and septic system are to be provided, or 1/2 acre if water is to be provided by off-site water supply system. Each PRD shall be subject to the Subdivision Regulations. Where there are differences between the PRD requirements and the Subdivision Regulations, the requirements of the PRD shall prevail. All other regulations and restrictions not specifically mentioned in this Ordinance shall be those of the Zone in which the PRD is located. (11-2-82) 3-13-90 3-10-98

Principal Route of Access A principal route of access within the meaning of this Ordinance shall be deemed to consist of any road, street, highway which is maintained.
3-3-75

Primary Recharge Area The area immediately overlying the stratified drift aquifer and adjacent areas of stratified drift which may not have sufficient thickness to be part of the Aquifer. The boundary of the primary recharge area is the contact between stratified drift and adjacent till or bedrock. 3-13-84

Private Road A road or road system layout, on private property, from the public road to the development. Such private property and private road shall be permanently encumbered with deed restrictions, satisfactory to Town Counsel, which shall insure that the private road does not become a Town road. 3-10-87

Professional Office A professional office shall be one, or a combination of the following type: doctors, dentist, lawyers, engineers, surgeons, veterinary clinic, accountants, architects.

Reduced Frontage

A minimum of thirty-five (35) feet of frontage on a publicly maintained road. There are two classes of reduced frontage :

Class A frontage provides access to one building lot

Class B frontage provides access to two building lots 3-10-87

(See Section 5-2, Subdivision Regulations re: Reduced Frontage Lots)

Seasonal Any non-residential use which is intended to operate only during specific periods of the year. Such use may include temporary structures. Seasonal uses shall be subject to site plan review. Planning Board may also require removal of any temporary buildings or other structures during the off-season. 3-11-93

Secondary Recharge Area The land adjacent to primary recharge area from which ground water moves down a gradient into the aquifer. 3-11-84

Shopping Center A group of businesses centrally arranged and identified by a common ground sign. 3-13-90

Sign (3-12-63) See Section 3-4 3-12-91

Sign Advertising (3-12-63) See section 3-4, Off premise Signs 3-12-91

Special Exception Use A use which because of its unique characteristics requires individual consideration in each case before it can become permitted in the Zone enumerated. 3-12-63

Story That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above . (Crawl spaces, unfinished and unoccupied attic spaces, cellars when not to be occupied shall not be considered a story.) 3-11-86

Structure Anything constructed or assembled. The term structure shall not include radio towers or antennae which are for the exclusive use of amateur radio service and they shall be limited to a total height of 150 feet. (3-12-63/3-9-82) 3-12-85

Temporary Structure Any structure designed to be movable or disassembled, which does not permanently alter the land or buildings on the lot. Temporary structures shall not have utilities or plumbing. Such structures shall be subject to ordinary requirements of the zone (setbacks, floor area ratio, green space, height, etc.) and may require non-residential site review. 3-11-93

Utility Any public service subscribed to by an owner and/or tenant of a site which does not require surface transportation. 11-2-85

Water Resource Management Plan A written plan containing maps, base line data, and provisions for the protection of surface water, ground water and important wildlife resources associated with a development project.

SECTION B

SUBDIVISION REGULATIONS

Adopted March 8, 1966

AMHERST SUBDIVISION REGULATIONS

Section 1 Authority

Pursuant to the authority vested in the Amherst Planning Board by the voters of the Town of Amherst and in accordance with the provisions of NH-RSV 674:35, the Amherst Planning Board adopts the following regulations governing the subdivision of land in the Town of Amherst, New Hampshire.

Section 2 Definitions

Abutter Shall mean any person whose property is located in New Hampshire and adjoins or is directly across a street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only and not for purposes of notification, the term abettor shall include any person who is able to demonstrate that this land will be directly effected by the proposal under consideration.

Approval Shall mean recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission meets the requirements of these regulations and satisfied, in the judgment of the Planning Board, all criteria of good planning and design.

Approval, Conditional Shall mean an expression by the Planning Board that the plat is approved but requires additional information or must meet specific conditions for the approval to be valid. Conditional approval does not constitute, nor should it be construed as, approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat.

Board shall mean the Planning Board of the Town of Amherst, New Hampshire.

Bond A bond filed with the Board of Selectmen whose purpose is to ensure that work specified by the Planning Board is completed satisfactorily. The amount of the bond shall be determined by the Planning Board with such assistance as it deems necessary. This amount shall be sufficient to cover all costs for completion of the work by the Town in the event that the applicant defaults. In all other respects, the action of the Board shall be governed by NH-RSV 674:36.

Engineer Shall mean an individual licensed to practice engineering in the State of New Hampshire.

Final Plan The final drawing or drawings on which the sub divider's plan of subdivision is indicated, prepared as required under the provisions of Section 4-5c hereof.

Health Officer Shall mean the Health Officer of the Town of Amherst and/or Town Zoning Administrator.

Master Plan Shall mean the comprehensive plan or plan of development for the community.

Official Map Shall mean the Tax Map of the Town of Amherst.

Preliminary Layout Shall mean a plan prepared as required in section 4-5B and submitted to the Board prior to preparing the final plat.

Street Listed below are the State definitions for the various roadways. These will be used by the Planning Board for their purposes.

Class I - Trunk Line Highways

These consist of all existing or proposed highways on the primary state highway system, excepting all portions of such highways within the compact sections of towns and cities of 6,500 inhabitants and over. The State assumes full control and pays cost of construction, reconstruction, and maintenance of its sections; the portions in compact areas are controlled by the towns and cities under Class IV highways.

Class II - State Line Highways

These consist of all existing or proposed highways on the secondary State highway system, excepting portions of such highways within the compact sections of towns and cities of 6,500 inhabitants and over, which are classified as Class IV highways.

All sections improved to the satisfaction of the Commissioner are maintained and reconstructed by the State. All unimproved sections, where no State and local funds have been expended, must be maintained by the town or city in which they are located until such improved to the satisfaction of the Highway commissioner.

Class III - Recreational Roads

These consist of all such roads leading to, and within, State reservations designated by Legislature. The State Highway Department assumes full control of reconstruction and maintenance of such roads during the recreational season.

Class IV - Town and City Streets

These consist of all highways within the compact sections of towns and cities of 6,500 inhabitants and over. Extensions of Class I and Class II highways through these areas are included in this classification.

Class V - Rural Highways

These consist of all other existing public ways, including highways discontinued as open highways, highways closed subject to gates and bars, and highways not maintained in suitable condition for travel for five years or more.

Scenic Roads - These are special town designations of Class IV, V and VI highways which have been designated according to NH RSA 231:158 and to which special rules apply.

Sub divider The owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the agent of any such owner.

Subdivision Shall mean the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

Subdivision, Minor The subdivision of land into three or fewer lots, with no potential for re-subdivision, and requiring no new roads, utilities or other municipal improvements.

Principal Route of Access Shall mean any public way, street, road, or highway which is maintained.

Section 3 Application procedure Effective 5-1-87

Section 3-1 Application

All applications made to the Planning Board, whether for formal or informal consideration, shall be submitted to the Office of the Zoning Administrator at least thirty (30) days prior to the date of a Planning Board meeting at which the applicant wishes to appear.

Application for proposed subdivision may be presented as follows: 1.) a Preliminary Conceptual phase, 2) a Design Review phase at which abutters must be notified, 3) a Final Review phase of the application at which abutters must be notified.

A completed application within the meaning of RSA 676:4 I (b) shall constitute a completed application form, a complete list of abutters, three sets of addressed gummed mailing labels including yourself, the payment of a fee as per approved schedule of fees, as well as all of the items specified in Section 4-5b, paragraph 1, 2, 3, and shall include any specific factual material required by the Planning Board, unless waived by the Planning Board during the subdivision process, including such materials as traffic, water supply, environmental impact studies, or similar materials necessary to make informed decisions as to the impact of a proposed subdivision or development.

For Planning Board agenda purposes only, inclusion of submission documents required by Section 4-5b shall be considered complete. The Planning Board shall receive and vote to accept an application only at a public meeting after notification of abutters as per RSA 676:4 I (d).

Applications and plans for Final Review phase will be reviewed by the Zoning Administrator for conformance with these subdivision requirements and applicants will be notified by regular mail of any deficiencies which must be corrected in order to be placed on a Planning Board agenda for Planning Board Final Review of the application.

After such notice, the applicant may revise the plan/s. The revised plan, which must provide the information required by subdivision regulations shall be resubmitted at least fifteen (15) days prior to the Planning Board meeting at which the applicants wishes to appear. Approval of State agencies is mandatory for applications to be approved in the Final Review phase.

Adherence to these requirements will place applications on the next available Planning Board agenda for consideration, within constraints imposed by the number of applications received. Assignment to agenda will be in the order of receipt.

The preliminary Conceptual phase is intended to address the suitability of the land for subdivision and for review of the basic concept of the proposal in general terms such as desirability of types of development for an area, and under the Master Plan. This review shall not bind either the applicant or the Planning Board.

The Design Review phase continues this informational exchange between the Board and the applicant, and these discussions are encouraged for major (more than four lots) subdivisions, subdivisions proposing new roads, and subdivisions applied for under the Planned Residential Development Ordinance.

Material presented for this discussion should include plats and information as described in section 4-5a. Discussions are vital to sound planning and to let both the applicant and the Board study the widest range of possible configurations. In addition, the

suitability of the proposal can be determined with a minimum burden of expense on the applicant.

Section 3-2 General

The Planning Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services; and to that end, determining whether such proposed subdivision, if permitted, would create one of the following conditions: a. constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services; b. necessitate an excessive expenditure of public funds for the supply of such services. If, after such review, the Board determines that the proposed subdivision would cause either of the aforementioned conditions, then the Board shall so inform the applicant and indicate that the applicant may modify the proposal to avoid the aforementioned conditions and in doing so, the said Board may, considering all the circumstances, specify the extent to which the particular proposed subdivision may be developed in any given year, as well as establish the minimum duration of time for the total development of such particular subdivision. The Board shall state in its records any modifications it will require.

If during review of an application, professional or engineering review is employed by the Planning Board, the costs of such review shall be borne by the applicant for approval. 10-18-89

Section 3-3 Agreement to Approvals

Acceptance and approval by the Board of the submission shall constitute an agreement between the Town and the applicant that subdivision and development of the land in question shall be done as detailed on the final plat/s. Deviation from the approved final plat requires the consent of the Board.

Section 3-4 Action of the Board

After due notice as required by RSA 676:4 I (d), the Planning Board shall hold a public hearing within thirty (30) days of accepting an application for Final Review. The applicant and abutters shall be notified of said hearing in fashion consistent with RSA 676:4 (g).

The Board must act to approve, modify and approve, or disapprove a plat within ninety (90) days of the acceptance of the complete submission unless the time for action has been extended an additional ninety (90) days by the Selectmen or unless the applicant has waived the requirement for action within the time periods specified herein and consent to such extension is agreeable to both parties. If the Board fails to act and has

obtained no extension from the Selectmen or waiver from the applicant, then said applicant may obtain from the Selectmen an order directing the Board to act within fifteen (15) days. Failure of the Board to act upon such order of the Selectmen, shall constitute grounds for the Superior Court, upon petition of the applicant, to issue an order approving the application, if the court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

The approved final design plat shall be recorded with the Registrar of Deeds, Hillsborough County prior to any sale or transfer of land within the subdivision. The recording of such approved plats, shall, without further action, modify the official map of the Town of Amherst. Such recording shall not constitute acceptance by the Town of any street, easement, or open space shown thereon.

No street or open space will be accepted by the Town until such time as all improvements have been carried out as shown on the final plat, in accord with the requirements of these regulations, subject to any conditions established by the Planning Board at the time of final design plat approval and compliance with all State and local regulations applicable thereto. Acceptance shall then take place only upon the acceptance by the Selectmen of the Town of a Warranty Deed to the premises so dedicated.

Section 4 Plat Requirement

Section 4-1 Compliance with Regulations

No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final design plat, prepared in accordance with the requirements of the regulations, has been approved by the Board, and other required permits have been issued.

The sub divider shall familiarize himself with all State and Town regulations relative to the health, buildings, roads and other pertinent data, so that he is aware of the obligations and standards expected.

Section 4-2 Character of Land for Subdivision

All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for building purposes without danger to public health or safety, or to the environment. Land subject to periodic flooding, poor drainage, or other hazardous conditions, shall not ordinarily be subdivided. Land with inadequate capacity for sanitary sewage disposal shall not be subdivided. Plats for the subdivision of land shall conform with all regulations of the Board, the Zoning Ordinances and the Water Pollution Control Regulations and other applicable by-laws, ordinances, and regulations at both State and local levels.

Section 4-3 Lot Layout

The layout of lots shall conform to the requirements of the Zoning Ordinance when in force and shall be appropriate for the intended construction.

Section 4-4 Preservation of existing features

Due regard shall be given to the preservation and protection of existing features, trees, scenic points, brooks, streams, rock outcroppings, water bodies, other natural resources, historic landmarks, stone walls and other significant features.

Section 4-5a Submission Documents. Design Review Phase

Tentative plats for discussions should be sufficiently clear to show all site conditions. Plans should not be at a scale greater than one hundred (100) feet to the inch. Six (6) paper prints are filed with the application detailing the general concept of the proposal and indicating the form of subdivision sought.

Plans for a Planned Residential Development (PRD) should include plats based on the approximate location and number of units and bedrooms without any bonuses; the approximate location and number of units and bedrooms assuming a maximum increase derived from the granting of bonus bedrooms; and the number of lots to be achieved if a conventional style development were proposed. (NOTE: All bonus bedrooms deleted 3-10-87)

Suitability of the soils present on a tract may be paramount to the type of development on such tract and soils testing should be directed toward establishing soils type and suitability, indicating on plans: boundaries, topography, wetlands, ledge, streams, existing roads, new roads, structures, soils, types, adjacent development.

Section 4-5b Submission Documents. Final Review Phase

1. Final plat/s, six (6) copies of paper prints showing the following: Also a Registrar's original including at least the items with asterisks and Mylar copy of subdivision at scale of Amherst Tax maps shall be provided including at least the items with asterisks. 1-10-90
 - * a. boundary of subdivision area, including bearings and distance on every lot line;
 - * b. topography with sufficient detail to indicate storm water runoff;
 - * c. streams, seasonal runoffs, brooks, ponds, wetlands (poorly or very poorly drained soils);
 - * d. the subdivision's relation to existing roads;

- * e. existing structure;
- * f. adjacent structures within 100 feet of parcel boundaries;
- * g. soil type/s certified by Soils Conservation Service (SCS) or by a Soils Scientist qualified by Soils Conservation Service; (10-20-93)
- * h. site location map, showing proposed subdivision in relation to major roads;
- * i. The sub-divider or his agent(s) shall arrange to have soils investigations, including test pits and required Hi-Intensity Soils Mapping (HISS), witnessed by the Town Health Officer and/or Zoning Administrative Official. Wetland areas, if present on the site, shall be further delineated by a HISS performed by a Certified Soil Scientist. The results of soils investigations to be placed on plans and include, but not limited to, soils data showing results and location of test pits and perc tests, a statement that tests meet the criteria established by State and Local authorities for the design of a septic system; (10-20-93)
- * j. location of 4000 square feet per single family unit reserved for septic systems. Additional soils tests, after Final Review approval, maybe required.
- * k. North point;
- * l. bar scale;
- * m. date of layout and dates of revision.
- * n. as part of a subdivision or lot line change submittal, all applicants are required to have the plans of the subdivision or lot line change reduced to no larger than 11"x 17" with no less than ten (10) copies. (8-15-01)

2. Final plat/s showing:

- * a. name of municipality;
- * b. name of subdivision;
- * c. name and address of sub-divider;
- * d. name and address of abutters;
- * e. existing roads or driveways within 200 feet of the subdivision;
- * f. existing and proposed lot lines ;
- * g. proposed names of new streets, or private roads and driveways servicing three or more dwelling units, shall have appropriate road names as approved by the Board of Selectmen;
- * h. area reserved for stumps;
- * i. location of existing and proposed easements, IF NONE, SO STATE ON PLANS;
- * j. deed restrictions, IF NONE, SO STATE ON PLANS;
- * k. building setback lines
- * l. parks;
- * m. recreation facilities;
- * n. conservation trails;
- * o. significant natural or manmade features;
- * p. water mains;

- * q. sanitary sewers;
- * r. storm water sewer or drain lines;
- * s. drainage calculations for proposed culverts or drainage structures, including driveway culvert size;
- * t. existing utilities, telephone, electric, gas;
- * u. proposed placement of telephone, electric, gas;
- * v. boundaries of Zoning Districts within the subdivision;
- * w. boundaries of other municipalities;
- * x. land use designation per Zoning Maps;
- * y. location of driveways accessing public road and indication of sight distances.
- * z. all site plans must have the following Certification by a Licensed Land Surveyor. "I certify that the street line(s), topography and physical features shown are accurate and true." Date_____ Name_____ LLS.

3. Final plat/s showing:

- * a. a statement of suitability of land for development;
- * b. a statement of work to be completed on existing streets to meet minimum standards;
- * bb. Final plans shall contain the following paragraph:
The ways shown on this plat are intended by the sub-divider and the Town of Amherst Planning Board to remain private ways. The recording of this plan shall not be construed as an offer of dedication of those ways as public highways under the New Hampshire common law of dedication and acceptance, nor shall the approval of this plat constitute an approval of those ways as public streets pursuant to RSA 674:40.
- * c. method of sanitary sewerage disposal;
- * d. method of supplying water;
- * e. watershed areas;
- * f. road profiles and cross sections, including driveways for Class B reduced frontage lots;
- * g. approval/s from any other Municipal, State or Federal Agency which may have jurisdiction;
- * h. name and seal of engineer or land surveyor licensed by the State of New Hampshire;
- * i. statement that final plat is based on a boundary survey with a maximum error of closure of 1 in 10,000 certified by an Engineer or Surveyor registered with the State of New Hampshire, distances shall be to the nearest 100th of a foot and bearings to the nearest one second;
- * j. stations, radii, curve data and paving widths of streets;
- * k. lot dimensions showing area in square feet and acres;
- * l. a written acknowledgment of the sub-divider's responsibility for maintenance, and the assumption by him of liability for injuries and

damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town;

- * m. accurate locations of all monuments to be set at street intersections, points of curvature and tangency of curved streets and at angles of lots;
- * n. indication on plan for each lot the maximum Planned Residential Development bedrooms;
- * o. floor plans and architectural drawings of proposed units in a PRD;
- * p. indication on plan of what area is dedicated to open space;
- * q. a statement of approval from appropriate municipal agency if subdivision is to be served by public water supply or sewer;
- * r. volume and page reference sufficient to indicate the sub-divider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots is situated with reference to the assembled tracts. All lots shall be numbered so as to coincide with the Town of Amherst tax map numbers by parent tract numbers.

1. No subdivision shall be finally approved until the Planning Board is provided with a certificate in writing from the Tax Collector that all tax liens (other than those that apply to April 1, of the tax year in which the subdivision is being approved) have been paid and cleared.

2. That section 4-5b(3) of the subdivision regulations shall require that any plan presented for final approval contain a depiction on the plan by dotted lines of the lot lines of the parent tract(s) as identified in the notes.

3. That the identity of any lien holder or mortgages (including volume and page references where said liens are recorded) that exist at the time such approval is given are listed and certified by an attorney.

- * s. statement regarding choice of building or bonding of any proposed road layout with improvements (option 1 or 2, see section 4-7, Roads);
- * t. approval of Town Counsel of legal data in final, executable, recordable form on:

1. the agreement to convey to the Town, land to be used for streets and other public purpose;

2. any covenants dealing with methods of ownership of common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land. With

respect to covenants and other recordable documents, no building permit shall be issued until the applicant has provided photo copies of the recorded instrument to the Town identifying the recorded item to be in place;

3. any covenants restricting use or future use of land within a subdivision to those permitted in the Zoning Ordinance as well as restrictions on bedrooms;
4. any proposed easements;
5. any proposal to increase drainage onto or across other property, whether public or private;
6. a recordable Warranty Deed for any land/road to be accepted by the Town.

- * u. estimate from appropriate contractors of cost of installation of all roads/improvements shown on plan;
- * v. space reserved on plat for endorsement by all appropriate agencies;
- * w. the following statement, "The Subdivision Regulations of the Town of Amherst are part of this plan, and approval of this plat is contingent on completion of all requirements of said Subdivision Regulations, excepting only any variances or modifications made in writing by the Board and attached hereto".
- * x. study or review of, unless waived by the Planning Board;

1. fiscal impact	5. water supply
2. environmental impact	6. hydrogeological
3. traffic	7. Other
4. drainage plans Effective 5-1-87	
- * y. Statement regarding a phasing plan in accordance with Section 4-9. (10-1-97)

Section 4-5c Submission Documents for Lot Line Change, Consolidation and Recording

Completed Planning Board application form with appropriate documents.
 Six paper prints and original. Site location map. Site map showing:
 Name of municipality, Name and address of owner/s, Boundaries (including bearings) certified with name, address and seal of licensed surveyor with the following statement entered on the plat and signed by the Surveyor. I hereby certify that this plan is based on an actual field survey and has a maximum error of closure of 1 in 10,000'. (For lot line change only); location of all monuments found or to be set (For lot line change only); North Point; bar scale; date of layout and date of any revision; names and addresses of abutters as defined in the Zoning Ordinance; location of existing or proposed easements (if none, so state on plan/s); deed restrictions (if none, so state on plan/s); name seal, and signature of land surveyor (licensed by New Hampshire); lot

dimensions, area of lot/s in square feet, area of lot/s in acres; volume and page references sufficient to indicate derivation of title/s; new lot lines (shown solid) and former lot lines to be eliminated (shown dotted) with if necessary the following note entered on the plat; 'lot/parcel number is not to be considered a separate building lot but will henceforth be considered as part of premises known as lot number _____. for Consolidation and Lot Line Change/s; all existing buildings on lot/s (for Lot Line Change Only); Soils Conservation Service soils type overlaid on plan (for Lot Line Change only); Zoning district boundaries on parcel, if any. 11-19-87 (11-20-96)

As part of a subdivision or lot line change submittal, all applicants are required to have the plan(s) of the subdivision or lot line change reduced to no larger than 11" x 17" with no less than ten (10) copies. (8-15-01)

Section 4-5d Lot Consolidation

All lot consolidations shall be completed using form designated by the Planning Board and must comply with the current Amherst Zoning and Subdivision Regulations. Signed copies of the form shall be recorded at the Hillsborough County Registry of Deeds and the Amherst Assessors office per RSA 674:39a. 11-20-96

Section 4-6 Legal Data Required

When applicable to a specific subdivision, the following are required, in form and substance approved by Town Counsel prior to approval of a subdivision plat:

- 1) Agreement to convey to the Town land to be used for streets and other public purposes, with transfer of title to such interests to be effective on such date as the Town accepts such land.
- 2) Covenants which shall include a definitive statement of the method of ownership of the common land or open space. The intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit.
- 3) Covenants permanently restricting the common land or open space from any future subdivision.
- 4) Easements and right-of-way over property to remain in private ownership.
- 5) Rights to drain onto or across other property, whether public or private, including a street.

Deeds covering any land to be used for public purposes, easements, right to drain onto or across private or public property shall be submitted to, and approved by the Board of Selectmen with the approval of Town Counsel, the Road Commission and/or any other appropriate agency.

All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to Town Counsel as part of the Final Review Phase.

Section 4-7 New Roads and Improvements and Building Permits

Any subdivision which requires road system layout and construction will have such improvements installed in accordance with the Road Specifications of 1971 of the Town of Amherst, or as amended thereafter. The sub divider shall elect to comply with Option (1) or Option (2) as described below and shall so note on subdivision plans submitted to the Planning Board for final approval and such notation shall become binding on his successors, heirs or assigns.

Option (1) The road system or part of a road system and any other planned or required improvement is entirely completed. An as-built road plan is furnished to and approved or disapproved by the Road Commission upon installation of the two (2) inch base course of bituminous concrete. The road/improvements are accepted by the Board of Selectmen, deeded to the Town, and a Maintenance Bond (Irrevocable letter of credit) is furnished to the Planning Board. Any deeds are recorded. Building Permits may then be issued.

Option (2) The road system or part of a road system and any other planned or required improvement is not entirely completed. Roads and improvements are completed except for installation of final wearing course of blacktop as described in Road Specifications of 1971. A Completion Bond or other form of surety, in a form and amount acceptable to the Planning Board, shall be furnished to the Board to assure completion of the road/improvement covered by the bond. An as-built plan shall be furnished to and approved by the Road Commission upon installation of the two (2) inch base course of bituminous concrete.

Along a road or portion of a road covered by a Completion Bond, building permits may be issued upon acceptance of the surety by the Planning Board.

Within twenty-four (24) months of the issuance of a Certificate of Occupancy for a structure on any new public road or portion of a new public road, or the occupancy of fifty (50%) percent of the homes along such road, the road shall be completed in accordance with the final approved plans, prior to the issuance of any further building permits on such road.

Until the road construction has been accepted, the sub-divider, developer, or his successors shall be responsible for the maintenance of the streets, including winter maintenance of snow plowing, sanding and other protection, which obligation shall be made part of the requirements of the Completion Bond.

Upon satisfactory completion of the road system as judged by the Road Agent/Commission of the Town of Amherst, said road system will be accepted by the Board of Selectmen and shall be properly deeded by the applicant to the Town,

the sub-divider, developer, or his successors shall provide the Town with a Maintenance Bond. 4-26-89

Section 4-7a Bonding

Option (1) The road system or other improvement is completed in accordance with Section 4-7 (Option 1), a Maintenance Bond (Irrevocable Letter of Credit) shall be filed with the Planning Board by the sub-divider, developer, or his successors, in a form and amount sufficient to cover any and all costs which arise due to deficiencies in the quality of the completed road or other improvements, as determined by the Road Commission.

The Maintenance Bond shall be reviewed by Town Counsel. The surety shall be for a period of two years following acceptance of the improvement/s.

Option (2) The road system or other improvement is completed to the extent called for in Section 4-7 (Option 2). A Completion Bond (Irrevocable Letter of Credit), in a form and amount acceptable to the Planning Board and sufficient to cover any and all costs necessary to complete the improvements, is filed with the Planning Board; as estimated by the Road Commission and Zoning Administrator; and shall include, but not be limited to the cost of such items as streets, public improvements, extension or installation of water or sewer lines, setting road bounds, public parks or recreation areas, or other such improvements as required by the Planning Board in the approval of the Final Subdivision Plat. Estimated costs for interim winter plowing and other maintenance shall be included in the amount.

This bond or other form of surety, shall be reviewed by Town Counsel.

Calendar completion dates of the improvements under Option (2) shall be in accordance with the requirements of Section 4-7, Option (2).

After completion of a road system / improvement, a Maintenance Bond (Irrevocable Letter of Credit) as required in Option (1) shall be filed with the Planning Board.

In the case of a water or sewer system, the Maintenance Bond shall extend for a period of five (5) years.

Before any work may commence on a subdivision, the sub divider, developer, or his successors shall file with the Road Commission a Certificate of Insurance including liability. 4-26-89

Section 4-7b Permits

If, during the course of execution of a subdivision the sub divider, developer, or his successors shall violate the conditions of the subdivision approval, the Zoning Ordinances, or the Subdivision Regulations of the Town of Amherst, the Planning Board may notify the Zoning Administrator of such violation and request that no further building permits or certificates of Occupancy be issued until:

- a. the violation(s) has been satisfactorily corrected as judged by the Zoning Administrator;
- b. a bond to cover the correction of the violation(s) has been accepted by the Board of Selectmen.

Section 4-8 Design for Open Space

Section 4-8a Open Space shown on Town Plan

Where a proposed park, playground, or other open space is shown on the maps of the Master Plan is located in whole or in part in a proposed subdivision, the Board shall require substantial compliance with such Master Plan. As a condition of approval of the Final Phase, the Board may require that the area shown thereon as open space be offered for dedication to the Town. The Board shall not require such dedication in excess of fifteen percent (15%) of the total area of the subdivision without reasonable compensation, and if the Town does not take steps within a period of one year from the date of approval of the subdivision to acquire the portion of the open space in excess of said fifteen percent (15%), the sub-divider may submit to the Board a plan for subdivision of such portion, provided such additional subdivision does not exceed the total number of family dwelling units permitted by the Zoning Ordinances for the applicable district, and meets requirements of these subdivision regulations.

Section 4-8b Other Open Space

If no such open space, park, or playground is shown on the maps of the Master Plan within the boundaries of a proposed subdivision, the Board may, where it deems essential, require that the Final Plat show one or more sites of character, size, shape, and location suitable to be used as community open space or park, in area not to exceed fifteen percent (15%) of the total area of the subdivision. In the case of cluster subdivision, open space shall be not less in area than as provided in the Zoning Ordinances. Such areas of open space, whether privately or publicly owned, shall have a sufficient legal restriction recorded in the Hillsborough County Registry of Deeds land records to assure permanence of use as open space. Open space land in private ownership shall be deeded in such a way that it will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended.

Section 4-8c Trees and Planting

Due regard shall be given to preservation of existing features, trees, scenic points, and other natural and historic resources within the subdivision. The Board may require additional tree planting and other landscaping appropriate to the area being developed. Removal of topsoil or surplus materials from the subdivision area shall not be permitted unless in accord with the Zoning Regulations. Existing trees on lots and open space land shall be preserved wherever feasible, unless otherwise directed by the Board.

Section 4-8d Development of Open Space

On land to be used as active recreation open space, undesirable growth and debris may be removed. Wooded and brook areas shall be left in their natural state. Active recreation open space shall be graded properly to dispose of surface water and shall be seeded with lawn grass. An area, not to exceed one (1) acre, for the purpose of burying stumps, boulders, and other natural waste may be designated on the Final Plat. This area must be filled in on an "as-you-go" basis and finally covered with at least four (4) inches of topsoil and seeded with lawn grass or other suitable ground cover such that the area is protected from erosion and is as close to its natural condition as possible two (2) years after the seeding as judged by the Zoning Administrator. There shall be no deposition, dumping, or storage of waste, or other natural or man-made material, supplies or equipment on any subdivision of land designated as open space excepting that specifically designated for the disposal of natural waste as described above. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until a site plan, prepared by a surveyor or engineer licensed by the State of New Hampshire, shall have been approved by the Board.

Section 4-8e Transfer of Development Rights, Implementation Deleted 1-10-90

Section 4-9 Phasing

Each subdivision of land for a residential use producing four (4) or more lots or dwelling units shall be subject to a minimum two (2) year phasing plan. Every subdivision of four (4) lots or dwelling units and not more than six (6) lots or dwelling units shall be phased over a minimum of two (2) years, with not more than 50 % of the dwelling units receiving building permits in a one (1) year period. Every subdivision of seven (7) lots of dwelling units but not more than nine (9) lots or dwelling units shall be phased over a minimum of three (3) years, with not more than 33 % of the dwelling units receiving building permits in a one (1) year period. Every subdivision of ten (10) lots or dwelling units but not more than twenty (20) lots or dwelling units shall be phased over a

minimum of four (4) years, with not more than 25 % of the dwelling units receiving building permits in a one (1) year period.

The requirement shall apply to all forms of residential subdivision of land, as defined in RSA 672:14 (I), and RSA 674:21 except as provided below: (1-16-02)

- a. A phasing plan shall not be required for “empty nester” housing, affordable housing, or congregate care facilities. (1-16-02)
- b. Open space subdivision of ten (10) or more lots or dwelling units shall have a maximum phasing time schedule of three (3) years, with not more than 50 % of the dwelling units issued building permits in any single year, provided that the open space is contiguous and open to public use.
- c. Subdivision served by private roads shall be permitted a 25 % reduction in the phasing plan time schedule.

The Planning Board may require any subdivision to adhere to a longer phasing plan if such phasing is deemed necessary to protect the health, safety, welfare and environment of the Town. (10-1-97)

Phasing Schedule		
# of Housing Units		
Phasing Schedule		
Max. Units in One		
Year		
2-3	N/A	N/A
4-6	2	50%
7-9	3	33.3%
10-20	4	25%

Section 5 Roads and Utilities Standards

Section 5-1 Street Design

Proposed streets other than private driveways shall be in harmony and conformance with existing and proposed streets, as shown on the Official Map. Street patterns shall give due consideration to contours and natural features. Where required by the Board, provisions shall be made for the extension of the street pattern to abutting undeveloped land to provide future potential access. Every proposed street in a subdivision shall be laid out and constructed as required by these regulations, except reduced frontage driveways which shall be regulated by Section 5-2.

Where a subdivision abuts an existing street with an inadequate alignment, or right-of-way width, the subdivision plat shall include in the street dedication all land needed to meet the standards established by these regulations, and as approved by the Board. Permanent dead-end streets shall be constructed to Section 5 2. In case of temporary dead-end streets, where future extension to another outlet is approved by the Board, where indicated on the plan, the full width of the right-of-way to the subdivision property line shall be dedicated to the Town.

The intersection of any street shall have a corner rounding at the property line with a radius of one-half the width of the right-of-way. The plan of any proposed subdivision shall show all work required to connect and complete the improvements and utilities between the proposed street pattern and any connecting street in an existing subdivision.

All streets other than private driveways shall be constructed and paved, and all bridges, culverts, drainage structures, storm sewers, gutters, drainage ditches, and other improvements required by the subdivision plan and accompanying documents shall be installed in conformance with the standards and specifications adopted by the governing body.

Private roads and driveways servicing three or more dwelling units shall have appropriate road names as approved by the Board of Selectmen. 1-10-90

Final plans shall contain the following paragraph: "The ways shown on this plat are intended by the sub-divider and the Town of Amherst Planning Board to remain private ways. The recording of this plan shall not be construed as an offer of dedication of those ways as public highways under the New Hampshire common law of dedication and acceptance, nor shall the approval of this plat constitute an approval of those ways as public streets pursuant to RSA 674:40. 1-10-90

Cul-de-sac Specifications (adopted 5-15-96)

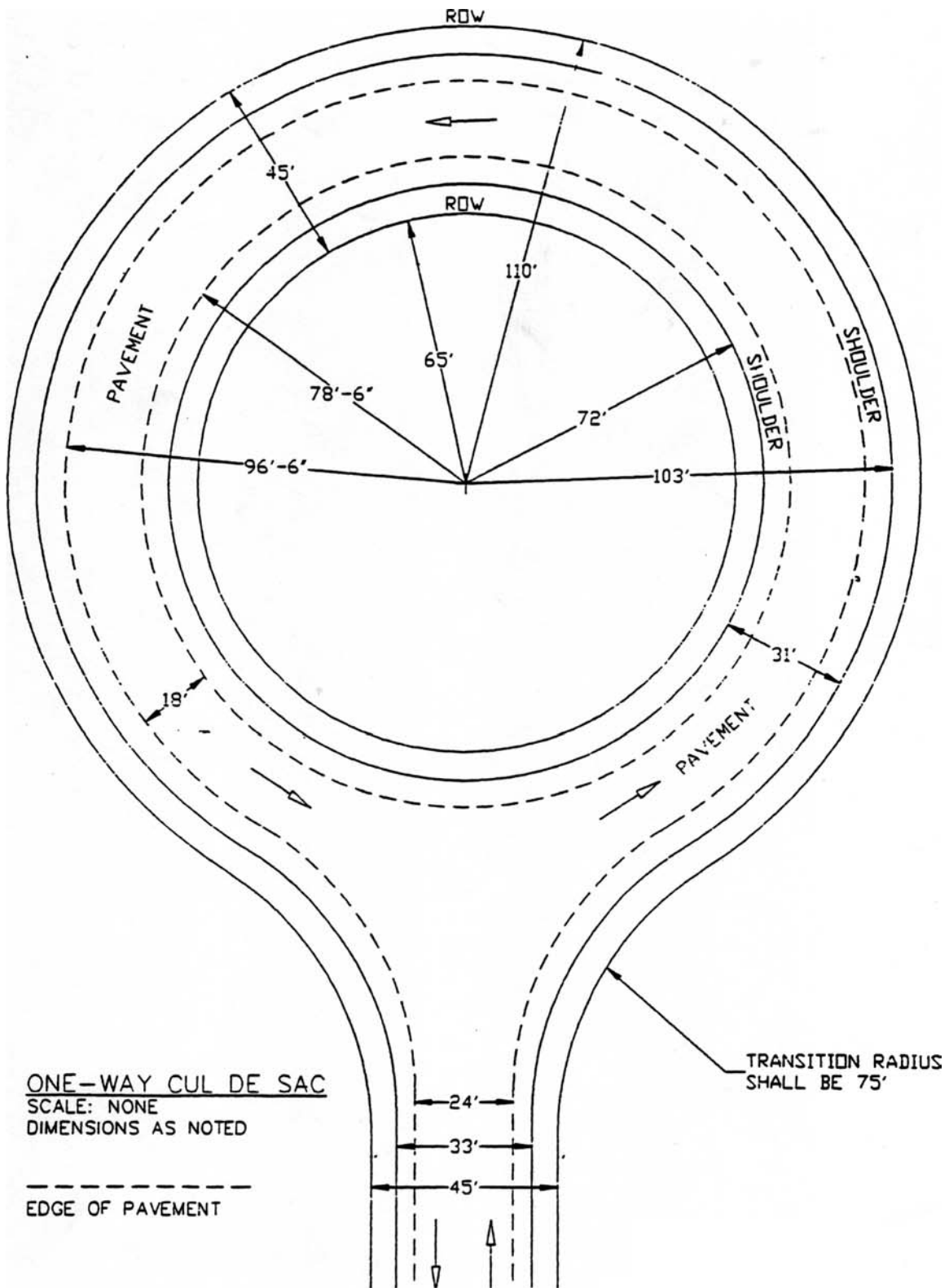
TOWN ROADS- TWO WAY TRAVEL: Each cul-de-sac is to have a minimum 75' radius as measured from the center of the cul-de-sac to the inside edge of the right-of-way. The radius of the transition from the roadway to the cul-de-sac shall be a minimum of 45 feet. The pavement width shall be a minimum of 24 feet, centered on the right-of-way. Shoulders shall be a minimum of 4 feet wide and so designed as to allow for proper drainage, snow removal and maintenance. The shoulders shall be constructed of a minimum of 3 inches of asphalt and 6 inches of crushed stone/gravel base or 12 inches of crushed stone/gravel base.

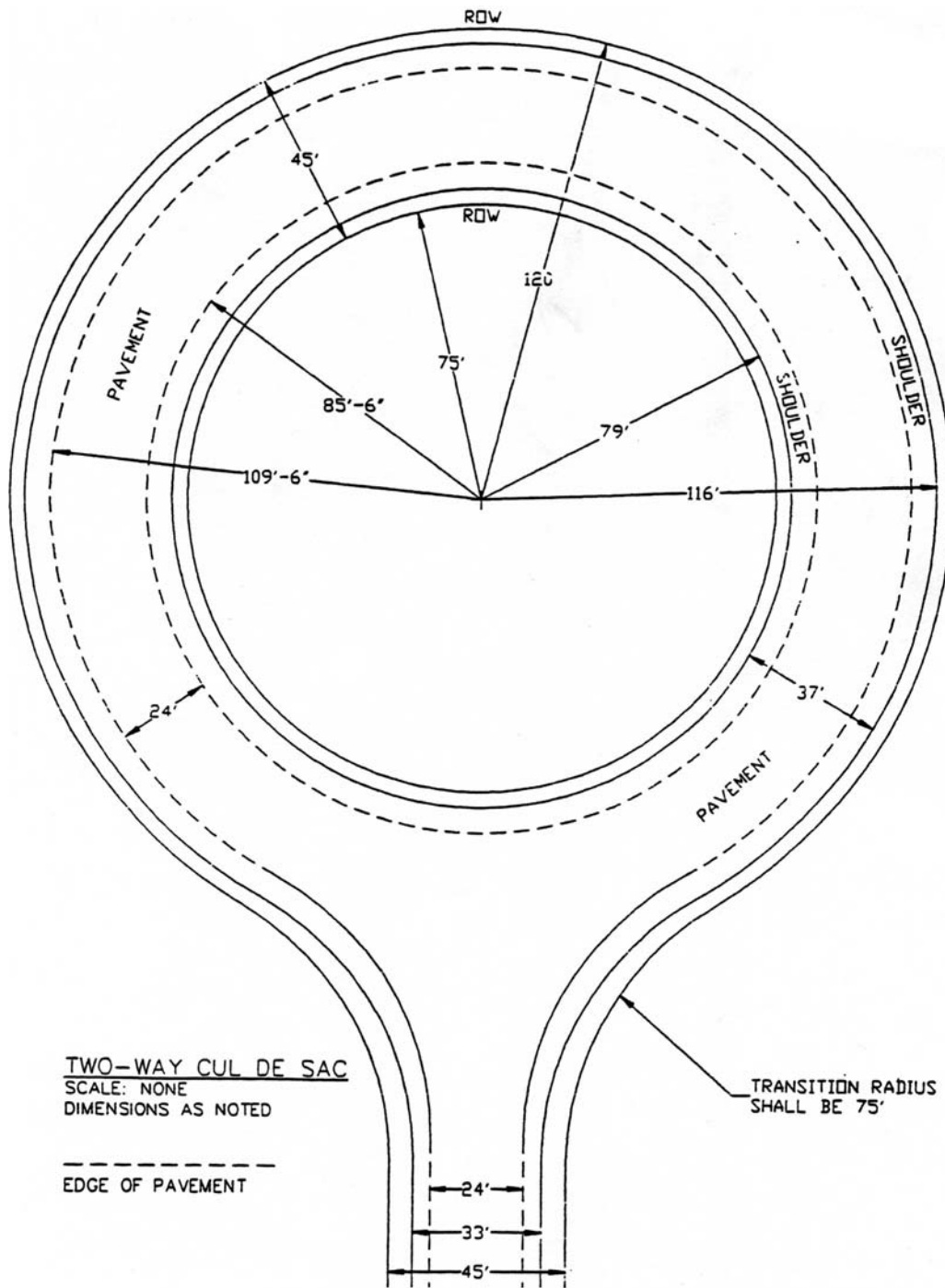
The center and outside of the cul-de-sac are to be constructed so as to facilitate proper drainage and winter maintenance and must have an approved landscaping plan for natural or planted areas. All disturbed areas within and adjacent to the right-of-way are to be seeded or stabilized in an approved manner.

TOWN ROADS- ONE WAY TRAVEL: Each one-way cul-de-sac is to have a minimum 100' radius as measured from the center of the cul-de-sac to the outside edge of the outside shoulder. The radius of the transition from the roadway to the cul-de-sac shall be a minimum of 75 feet. The width of the right-of-way shall be a minimum of 45 feet. The pavement width shall be 24 feet, except within the cul-de-sac which shall be a minimum of 18 feet. The pavement shall be centered on the right-of-way. Shoulders shall be a minimum of 4 feet wide and so designed as to allow for proper drainage, snow removal and maintenance. The shoulders shall be constructed of a minimum of 3 inches of asphalt and 6 inches of crushed stone/gravel base or 12 inches of crushed stone/gravel base or 12 inches of crushed stone/gravel base.

The center and outside of the cul-de-sac are to be constructed so as to facilitate proper drainage and winter maintenance and must have an approved landscaping plan for natural or planted areas. All disturbed areas within and adjacent to the right-of-way are to be seeded or stabilized in an approved manner. One-way directional signage shall be shown on a traffic control plan and installed as approved.

See designs on following pages





TWO-WAY CUL DE SAC
 SCALE: NONE
 DIMENSIONS AS NOTED

 EDGE OF PAVEMENT

TRANSITION RADIUS
 SHALL BE 75'

Section 5-2 Subdivisions Containing Reduced Frontage Lots

Section 5-2a General

It shall be the purpose of this section to provide for a means whereby the Planning Board may approve subdivisions containing lots with reduced frontage as a means of access to back lots, provided minimum conditions are met by the developer concerning the extent of their utilization for said purpose. 8-20-86

Section 5-2b Conditions and Restrictions

1. Reduced frontage shall be a minimum of thirty-five (35') feet on the public way.
2. The driveway portion of reduced frontage lots shall be an integral portion of and attached to the back lot.
3. Class A reduced frontage provides access to one back lot.
4. Class B reduced frontage provides access to two back lots.
5. No subdivision plan providing for reduced frontage lots shall be approved unless the total acreage of such plan is a minimum of ten acres for each reduced frontage lot/s sought. Twenty acres could produce two reduced frontages, etc.
6. No Class B reduced frontage shall access a public road unless four hundred (400') of safe, all season, sight distance is established.
7. No Class B reduced frontage shall be located so as to enter onto a public road within five hundred (500') feet of any existing or proposed street intersection on the public road (unless the frontage enters at an existing intersection), or be located within five hundred (500') feet of another existing or proposed reduced frontage lot/s on the same side of the public road.
8. The use of reduced frontage lots shall be restricted when, in the opinion of the Planning Board, such use is in conflict with the long range plan for the Town or creates unusual traffic problems or conditions.
9. The driveway area of Class B reduced frontage lots, approved by the Planning Board, shall be depicted on the final plat as a shaded area, being a corresponding portion of the two (2) lots to be serviced by this frontage. At the time of Submission of documents for the final phase, the applicant shall provide the Planning Board with a declaration of covenants and restrictions satisfactory to Town Counsel which shall provide for the mutual recognition of easements between the two (2) lots, a provision for the maintenance of the driveway, and a suitable dedication which shall insure that such driveway shall never become a Town road. 8-20-86

Section 5-2c Construction Requirements

1. Class A reduced frontage lot. Subject to any construction requirements for driveways.
2. Class B frontage lots and the driveway shall be constructed in conformance with the following specifications:
 - a. Removal of all loam, muck, stumps, and other improper road foundation material within the limits of the right-of-way. In embankment areas suitable foundation material shall be placed in one (1') foot layers and compacted to form a stable sub grade.
 - b. Ledge and boulders shall be removed to at least eight (8") inches below sub-grade and replaced with sand or bank run gravel.
 - c. Proper drainage shall be installed as indicated on the Final Phase Plat. Natural water courses shall be cleaned and increased in size where necessary to take care of storm runoff. Drainage ditches at least eighteen (18") inches in depth at its midpoint below center line grade shall be construed at the street right-of-way on both sides of the roadway and so designed as to provide for the proper flow of storm runoff. Culvert pipes consisting of either reinforced concrete or metal, having a minimum size of eighteen (18") inches of cover to final grade. Culverts in embankments over fifteen (15') feet high shall be of reinforced concrete pipe of the proper class.
 - d. The grade of the driveway shall not be more than eight (8%) percent nor less than one (1%) percent.
 - e. Approved street signs and culvert posts shall be installed as directed by the Board of Selectmen and paid for by the developer. 8-20-86

Section 5-2d Driveway Regulations 3-12-88

PURPOSE In as much as driveways are, in effect, intersections, they require certain controls in order to provide safe and efficient access to and exits from property, as well as to provide for proper and suitable discharge and control of surface drainage in and around the entrance to said drive, this regulation is enacted.

PERMITS Any one desiring to construct, alter, repair, or relocate a driveway in order to obtain access to an existing or proposed street or roadway, shall first apply for and obtain a permit from the Zoning Administrator of the Town of Amherst.

GENERAL REQUIREMENTS

1. Wherever practicable, one common driveway shall be construed to serve

adjacent lots.

2. The maximum width of any driveway, at the property line, shall not exceed twenty (20') feet for each lane.
3. Driveways should intersect the street at a 90 degree angle and should be no greater than 30 degrees from normal.
4. The driveway approach to the street should be as flat as practicable.
5. Drainage from the driveway shall be engineered to minimize the discharge of runoff from the driveway onto the street.
6. The minimum sight distance shall be the posted speed limit times ten.

Upon any application for a driveway permit, the applicant may confer with the Town Road Agent to determine appropriate slope, culverting and other aspects of construction in order to properly provide for drainage, snow, removal and safety of existing access road.

Upon application to the Planning Board, subject to recommendations of the Town Road Agent, the Board may waive any of the foregoing requirements when it is shown that strict compliance would cause undue hardship or is not in the public interest.

In the event that any of the foregoing conflicts with existing State law dealing with the same subject matter, then the State legislation shall prevail to that extent.

EASEMENT AND BOND

The applicant may, at the discretion of the Selectmen, as a condition of the granting of the permit, be required to provide to the Town of Amherst, an easement to the extent deemed necessary by the said Selectmen for the purposes of entering upon the premises of the applicant to control or maintain surface drainage and do all things necessary for an incidental to such drainage. To that end, and where appropriate and necessary, in the discretion of said Selectmen, the applicant may be required to provide a Bond or Sureties in such sum as is deemed necessary for the proper construction of such culverts, piping, ditching or other efforts incidental to and necessary for the proper discharge and control of surface and sub-surface drainage in and around the vicinity of the proposed driveway, both on the property of the applicant or on the property of the Town.

All funds provided to the Town in satisfaction of this obligation shall be deposited in an escrow savings account maintained by the Town for said purpose, and portions of said funds may be withdrawn by the Selectmen from time to time to apply against the cost of any portion of said construction which the Town is obliged to undertake to complete. Provided, however, that no funds shall be expended by the Town at any site in excess of the amount on deposit pertaining to such site.

FEES

No permit shall be issued until the payment of a fee, which fee shall be established from time to time by the Selectmen as they see fit, said fee to be paid to the Town of Amherst. 3-12-88

Section 5-3 Classification of Streets

The classifications of Town streets shall be as defined in the Official Map, and the classification of new streets and streets now shown on such plan shall be as determined by the Board. The standards of design applicable to Town roads shall be those contained in the Road Construction Specifications for the Town of Amherst, applicable at the time construction is undertaken.

Section 5-4 Pedestrian Walks

Where necessary, in the judgment of the Board, rights-of-way for pedestrian travel and access may be required between subdivisions or its parts, or between a subdivision and public property.

Section 5-5 Drainage

An adequate surface storm water drainage system for the entire subdivision area shall be provided. Storm drainage shall be carried to existing water courses, or connect to existing storm drains. If the storm water drainage system creates any additional flow over any adjacent property, the sub-divider shall obtain an easement from the adjacent owner and shall hold the Town of Amherst harmless from any claims for damage resulting from said easement. The Board may require the installation of street lighting in any subdivision where it deems necessary.

Section 5-6 Underground Utilities

All utilities within the bounds of a proposed subdivision which now includes new roads shall be placed underground. Where underground utilities are to be furnished from a public source; all necessary mains, branch off-sets to each lot, and fire hydrants shall be installed by the sub divider, as approved by the cooperation or municipal department having jurisdiction and to the satisfaction of the governing body and without expense to the Town. 8-20-86

Section 6 Administration and Enforcement

Section 6-1 Modifications

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modification will properly carry out the purpose and intent of the Master Plan and of these regulations.

Section 6-2 Acceptance of Streets

Nothing herein intended to modify the requirements of law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

Section 6-3 Other Regulations

Where these regulations are in conflict with other local or State Ordinances, the more stringent shall apply.

Section 6-4 Enforcement

These regulations shall be enforced by the Board of Selectmen or its duly authorized representative.

Section 6-5 Penalties

As provided in RSA 676:16, any owner, or agent of the owner of any land located within a subdivision who transfers or sells any land before a plat of the said subdivision has been approved by the Planning Board and recorded or filed in the Office of the Registrar of Deeds shall forfeit and pay a penalty of five hundred dollars (\$500) for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

Section 6-6 Appeals

Any person aggrieved by an official action of the Board, may appeal there from to the Superior Court as provided by RSA 676:15.

Section 6-7 Validity

If any section, subsection, or phrase of these subdivision regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

Section 6-8 Effective Date

The effective date of these regulations shall be March 8, 1966 as amended.

Section 6-9 Pre-construction Meeting

To ensure that the prescribed requirements are met on delayed starts for subdivisions which require any new road construction, a pre-construction meeting shall be required by the Planning Board for subdivisions which have not commenced Construction within one year of approval and/or have changed ownership. The pre-construction meeting shall be held no more than 3 months or less than 30 days prior to commencement of any activity on the site. The purpose of the pre-construction meeting is to ensure that all parties involved with the meeting is to ensure that all parties involved with the development of the project, including, but not limited to, the owner and/or developer, the contractors and builders, the Town's Engineer, the Building Inspector and the Road Agent, are familiar with the approved design, the terms and conditions of the approval and that all performance quadrant are accurate and in place. In addition to the individuals listed previously, representatives from the Planning Board and the Selectmen's representative to the Planning Board may attend the meeting. 1-20-93

SECTION C

NON-RESIDENTIAL SITE PLAN REVIEW REGULATIONS

Purpose

The purpose of these regulations is to provide for Planning Board review and approval or disapproval of all site plans for the development of tracts of land for all uses other than one and two family residential, prior to the issuance of a building permit, whether or not such development includes a subdivision or re-subdivision of land, and to assure that minimum standards will be attained so as to provide for and protect the public health, safety and general well being, in accordance with NH RSA 674:43.

In addition the Planning Board, when considering applications for public utility structures may, under RSA 674:30A (II), designate a Building Official of the Town, empowered to waive specific requirements of a Non-Residential Site Review, as its agent. A public hearing shall be held if requested by Abutters, the applicant or the Planning Board.

General Standards

In the review of any non-residential site plan conducted under these regulations, the Planning Board shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following:

1. Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.
2. Pedestrian and bicycle safety access.
3. Off street parking and loading
4. Emergency vehicle access, including review by Fire Department, Police Department and Highway Department.
5. Storm-water drainage, based upon a 10-year storm intensity occurrence, utilizing on-site absorption wherever practical, and taking into account the contour of the land.
6. Water supply, wastewater disposal and solid waste disposal.

7. Environmental factors such as pollution, noise, odor and protection of natural land features.
8. A landscape plan in keeping with the general character of the surrounding area.
9. Signing and exterior lighting.
10. Conformance with all existing codes.
11. Cooperation with the Planning Objectives of the Town, i.e. regarding green areas, scenic setbacks, easements, etc.

In addition the Planning Board shall review the site plan to assure compliance with the provisions of the Zoning Ordinance and the minimization of encroachment on neighboring land uses.

Submission Procedure

All applications made to the Planning Board for Non-Residential Site Review shall be submitted to the Office of the Zoning Administrator at least thirty (30) days prior to the date of a Planning Board meeting at which the applicant or his agent wishes to appear.

Applications and plans will be reviewed by the Zoning Administrator for conformance with site review requirements and must be accompanied by a completed application form, six (6) copies of the plan, a complete list of abutters, a stamped self-addressed envelope, and the payment of a fee as per approved schedule of fees.

Applicants will be notified in writing of any deficiencies which must be corrected in order to be placed on a Planning Board agenda for Planning Board acceptance and formal consideration.

After such notice, the applicant may revise the plan/s. The revised plan, which may provide the information required by site review regulations, as reflected on appropriate checklist, shall be resubmitted at least fifteen (15) days prior to the Planning Board meeting at which the applicant wishes to appear. Approval of State agencies is not mandatory for an application to be considered but such approvals must be provided as a condition of final approval.

Adherence to these requirements will place completed applications on the next available Planning Board agenda for acceptance and formal consideration, within constraints imposed by the number of applications received. Assignment to agenda will be in order of receipt. 6-19-85

Submission Requirements

When the owner of the property or his authorized agent makes formal application for site plan review, his application shall contain at least the following exhibits and information.

1. A fully executed and signed copy of the application for site plan review and fee payment.
2. Six (6) copies of site plan drawn to scale sufficient to allow review of the items listed under the preceding general standards, but not more than fifty (50) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
 - a. Owners name, address and signature.
 - b. Names and addresses of all abutting property owners according to the Town tax records.
 - c. Sketch map showing general location of the site within Town.
 - d. Boundary of the entire parcel held in single ownership regardless of whether all or part is being developed at this time.
 - e. The bearing and distances of all property lines and the source of this information.
 - f. Zoning classification(s) of the property and the location of the Zoning boundaries if the property is located in two or more zones.
 - g. Soil types and location of soil boundaries as certified by the Hillsborough County Conservation District.
 - h. The location of all building setbacks required by the Zoning Ordinance.
 - i. The location, size and character of all signs and exterior lighting.
 - j. The lot area of the parcel, street frontage and the Zoning requirements for minimum lot sizes and frontage.
 - k. The location of all existing and proposed buildings, (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, service areas, easements and landscaping.
 - l. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within two hundred (200) feet of the parcel.
 - m. A storm water drainage plan showing:
 - 1) The existing and proposed methods of handling storm water runoff.
 - 2) The direction of flow of the run-off through the use of arrows
 - 3) The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.
 - 4) Engineering calculations used to determine drainage requirements based upon a 10 year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as pavement and building areas) being proposed.
 - n. Existing and proposed topography of the site at 2 foot contour intervals.
 - o. A utility plan showing provisions for all existing and planned utilities on the site.
 - p. A buffer zone of dense planting where the site abuts a zone boundary.

- q. Location of Monitoring wells. All wells to be sampled yearly and environmental report submitted to the Town (unless otherwise specified by the planning Board). All baseline data shall be submitted to the Town prior to the issuance of any building permits.
- r. All site plans show the location, type, and size of all trees over five inches (5") in diameter and located from the edge of the existing traveled way to a point fifty (50) feet back from the Town or State ROW line; and from five (5') feet outside the sideline property lines to thirty (30') feet inside the property lines for a distance of one-hundred (100) feet back from the ROW line. (8-15-01)
- s. All site plans shall be submitted with three copies of 8" x 10" photographs of the site taken from across the abutting street (about 60'0 and taken from: a. Directly opposite the site; and b. Diagonally opposite each corner of the site. (8-15-01)
- t. As part of the Site Plan submittal all applicants are required to have one sheet of the set of plans showing the proposed construction reduced to no larger than 11" x 17" with no less than ten (10) copies. (8-15-01)

3. Copies of any proposed or existing easements, covenants, deed restrictions, etc.
4. Copies of all applicable State approvals and permits:
 - a. Approval of the New Hampshire Water Supply and Pollution Control Commission of any proposed septic System/s, or additions to septic systems as may be required.
 - b. Approval of the New Hampshire Special Board and the Zoning Board of Adjustment for the relocation, filling, dredging or rechanneling of any natural or man-made drainage area.
 - c. Approval of the New Hampshire Department of Public Works and Highways or Board of Public Works for any required driveway permits or curb cuts.
5. The Planning Board may require the posting, prior to final approval of any plans, of a bond or escrow agreement in such amount as is approved by the Board as being reasonably necessary to ensure completion of all improvements required as conditions of approval of such plan, in such form as may be approved by the Board and Town Counsel.
6. The Planning Board may require the owner or his authorized representatives to

fund any professional review of a site plan or bear reasonable off-site improvement costs when it has been demonstrated that these costs will occur as a result of and are connected in any way with the proposed development. 2-90-91

7. Groundwater and/or Surface water monitoring

data per procedures described below:

A. Groundwater Monitoring:

Groundwater monitoring wells shall be installed as required by the Planning Board in accordance with accepted installation procedures. A minimum of one up gradient and one down gradient will normally be required. Baseline monitoring of all wells shall be performed using the following methods or their equivalent.

- | | | |
|---|---------------------------------|-----------------|
| · | Volatile organic compounds | SW846 8260 |
| · | Semi-volatile organic compounds | SW846 8270 |
| · | Total metals | SW846 6010/7471 |

Well sampling is to be performed in accordance with the procedures found in SW846 and the analysis shall be performed by state certified laboratory. All samples will be collected as “zero head space samples” in sterile containers, packed in ice and delivered to the laboratory within 12 hours for analysis.

B. Surface Water Monitoring:

Surface water quality sampling will be conducted at least once per year during August or September within twelve hours of a .5” storm event. Samples are to be taken from detention/retention ponds, treatment swales or at a point of discharge from the property. All samples will be collected as “zero head space samples” in sterile containers, packed in ice and delivered to the laboratory within 12 hours for analysis. Analysis is to be performed by a State Certified Lab and will consist of the following methods or their equivalent:

- | | | |
|---|---------------------------------|-----------------|
| · | Volatile organic compounds | SW846 8260 |
| · | Semi-volatile organic compounds | SW846 8270 |
| · | Total metals | SW846 6010/7471 |

Recommended surface water analysis:

- | | | |
|---|-------------------------|------------|
| · | Nitrates | EPA 353.3 |
| · | Chlorides | SW846 9252 |
| · | Total Kjeldahl Nitrogen | EPA 351.3 |
| · | TOC | |

C. Reporting:

Unless otherwise required by the Planning Board as a condition of site plan approval, a baseline groundwater monitoring report shall be submitted to the Zoning Administrator prior to the issuance of a Certificate of Occupancy. The report shall contain well specifications and installation data, boring logs, laboratory analytical reports, and the plan showing the location and identification of each well or sampling point. Copies of all annual water quality analysis reports will be submitted to the Town of Amherst Zoning Administrator by October 31 of each year.

D. Sampling Frequency:

Groundwater monitoring and surface water monitoring, including retention and detention ponds, swales, and other run off areas, shall be conducted annually. If after the first year of analysis, the groundwater sampling results show no degradation of groundwater quality in relation to the baseline results, the monitoring program may be modified to reduce sampling frequency after approval of the Planning Board.

4-5-97 (5-7-97)

8. Landscaping Standards (adopted May 17, 2000)

Purpose:

- a. Diminish potentially adverse impacts of structures, lighting glare, noise, wind velocities, and odors which could result from permitting widely varying land uses on adjacent parcels.
- b. Insure adequate buffer between neighboring parcels to preserve and protect neighboring properties.
- c. Promote aesthetically pleasing relationship of scale between buildings and their natural surroundings.
- d. Reinforce visual image of Amherst's "tree lined street", through the planting of native shade trees along roadways, installation of underground utilities, and design of "monument or pedestal" signage rather than "pole" signage.
- e. Encourage "pedestrian friendly" environment with sidewalks, barrier-free street crossings, public benches, and bicycle racks.
- f. Provide visual and climatic relief from broad expanses of pavement and define logical areas for pedestrian and vehicular circulation.
- g. Retain mature vegetation in place or transplant and reuse it on site to the greatest feasible extent.

8.1 Street Tree Landscape Strip

- a. 50' wide strip parallel to public ROW and continuous along entire length of frontage; minimum one shade tree per 40' frontage; minimum 3" caliper. may substitute one new tree for each existing tree over 3" caliper preserved within strip.
 - b. Minimum tree height equal to $\frac{1}{2}$ proposed building height.
 - c. Buffer strip should include a combination of deciduous and/or evergreen trees and shrubs, grass, fences, berms and walls.
- 8.2 Use plans that are characteristic of the region in natural masses.
- a. Masses of three or more trees appear more natural because they are typically massed in nature.
 - b. The appropriate choice of plant species ensures survival.
 - c. Plants suitable for roadside and parking lot conditions:

Botanic Name:

Common Name:

Shade Trees:

Acer Platanoids
 Acer Rubrum
 Quercus palustris
 Fraxinus pennsylvanica
 Quercus rubra (borealis)
 Tilia cordata greenspire
 Zelkova serrata
 Ulmus Americana
 Olatanus SPP

Crimson King
 Red Maple
 Pin Oak
 Green Ash
 Red Oak
 Littleleaf Linden
 Japanese Zelkova
 American Elm
 Sycamore

Ornamental Trees:

Cornus spp.
 Malus spp.
 Prunus spp.
 Pyrus calleryana
 Amelanchier Canadensis

Dogwood
 Crabapple
 Flowering Cherry
 Callery pear
 Service berry

Evergreen Trees:

Picea pungens
 Pinus nigra
 Pinus strobus
 Thuja occidentalis

Colorado Spruce
 Austrian Pine
 White Pine
 Eastern Arborvitae

Tsuga canadensis

Canadian Eastern Hemlock

Evergreen Shrubs:

Ilex spp.

Holly

Juniperus spp.

Juniper

Kalmia latifolia

Mountain Laurel

Rhododendron spp.

Rhododendron

Taxus spp.

Yew

Deciduous Shrubs:

Azalea spp.

Azalea

Cornus spp.

Dogwood

Cotoneaster spp.

Cotoneaster

Euonymus spp.

Euonymus

Forsythia spp.

Forsythia

Myrica pensylvanica

Northern Bayberry

Syringa spp.

Lilac

Viburnum spp.

Viburnum

For more detailed list of recommended trees, see; Selecting Trees For Urban Landscape Ecosystems. NH Department of Resources and Economic Development, 1994.

8.3 Use a variety of species to assemble new landscaping masses.

- a. Create visual depth in plant massings by layering plants or various textures, sizes and colors.
- b. Include flowering or fruiting species for color, interest and wildlife habitat where appropriate.

8.4 Integrate existing mature trees and vegetation into the landscape plan.

- a. Preserve the function of existing vegetation, such as groves of trees that separate land uses or provide a natural backdrop for development.

8.5 Use plantings to enhance the relationship of buildings to their surroundings.

- a. Layered plantings soften edges and corners and reduce the scale of buildings in the landscape.
- b. Masses of trees and vegetation near buildings reduce the perceived scale of buildings and set them into the landscape.

- c. Trees should be a minimum of 3” inches in diameter at the time of planting.
- d. Consider plant massing along with architectural massing during the design process.
- e. Balance the mass, proportion and rhythm of landscape and building elements.

Minimize lawn area, as most lawn grasses require supplemental irrigation and regular applications of fertilizer to stay green.

- f. Where lawn is necessary, favor fescues and other drought tolerant species.

8.6 Parking Areas

- a. Planting islands should be used to define vehicular and pedestrian circulation patterns and to break up large expanses of pavement. In general, islands should be distributed throughout the parking lot. A combination of end cap islands and linear islands running parallel to parking rows are preferred. Islands should include trees and be planted with either grass or evergreen shrubs.
- b. There shall be landscaped open space within the parameter of the parking areas in the minimum amount of 5 % of the gross parking area.
- c. Break parking areas into sections not to exceed 140 cars; separate sections by landscaped buffers with combination of divider and terminal islands.
- d. Provide minimum area of 200 sf per landscaped island and at least one tree per island; trees must be minimum 4’ from curbing.
- e. Divider islands — Provide at least one island for every four parking rows at least 10 ft. wide; space trees not more than 50 ft. apart in each contiguous landscape area; or provide one tree per 200 sf of ground area.
- f. Terminal islands — Provide at ends of parking rows at least every 25 spaces; provide at least two trees per island and evergreen shrubs 3’ on center, or grass/ground cover with approval of Planning Board. All landscape areas shall contain shrub and ground cover plantings. They may not be totally covered with mulch.

8.7 Adjacent Buildings

- a. Provide minimum 10’ deep area with trees and shrubs around building sides with public access.

8.8 Signage Landscape Strip

- a. Require minimum 4' wide area around each free standing sign.
- b. Existing vegetation which is preserved may be substituted for required plantings.

8.9 Screening of unsightly features

- a. Must locate storage/stockpile areas out of view of public or in screened area: fenced enclosure required.
- b. Must locate loading docks/receiving areas out of view or in screened area.
- c. Minimum one evergreen tree per linear foot of screen perimeter; minimum tree height equal to 1/2 maximum height of items to be screened.
- d. May substitute enclosure with material compatible with principal structure for screening requirements.

8.10 Maintenance

- a. Landscaping must be maintained in good condition.
- b. Provide permanent water supply system (sprinkler or hose bibs)
- c. Provide maintenance bond for one year.
- d. A note shall be provided on the plan stating "All conditions on this plan shall remain in effect for perpetuity."

9. Outdoor Lighting Guidelines (5-17-00)

Purpose:

Design outdoor lighting to provide a uniform distribution of light without compromising safety and security.

- a. Areas of high pedestrian and vehicle use should maintain a minimum footcandle of 1.0 measured four feet above the ground surface at the point of least

illumination and a maximum foot-candle of 7.0, measured four feet above ground surface directly beneath the light source.

b. The intensity of light fixtures should be restricted to 250 watts, with metal halide lamps recommended for parking areas.

The total cutoff of light should occur within the property lines of the parcel to be developed

c. Parking areas should have light fixtures that have a total cutoff of all light at less than 90 degrees and a beam cutoff of less than 75 degrees.

d. Attached building or wall pack lighting should be screened by the buildings architectural features or contain a 45 degree cutoff shield.

Select lighting and posts that are complementary to the general architectural style of the development and surrounding neighborhood.

e. Lighting manufacturers carry fixtures ranging from contemporary to period styles designed to enhance the visual qualities of the development they serve without significantly adding cost.

Select light poles that are in scale with proposed or surrounding buildings.

f. The maximum light fixture height for properties shall be 20 feet.

g. For pedestrian walkways and plazas, consider using lights in bollards (3 to 4 foot high posts) where appropriate.

Lighting should not conflict with shade trees within landscaped islands.

h. Select lower mounting heights, below the canopy of trees, rather than high mounted fixtures which may create shadows or dark spots.

i. Spacing of light poles in parking areas should be staggered rather than aligned, to maintain a uniform distribution of light.

j. In all cases, light poles should be located within landscaped islands for safety and aesthetic reasons.

10. All requests for waivers shall be filed with the application 30 days in advance of the meeting. The waiver(s) requested shall be identified and an explanation of the request(s) provided. (5-17-00)

11. Before any certificate of Occupancy or temporary certificate of occupancy is issued the Planning Board shall hold a public hearing to determine that the improvements shown and conditions of approval have been substantially satisfied. The applicant shall provide

the Planning Board with an as-built plan of the improvements at the same scale as the original plan, seven contact prints and two mylar copies to be used as overlays. The applicant is responsible for all required data to notify abutters, including appropriate fees. This regulation shall not apply to subdivisions of single family homes. All applications shall be filed no later than 20 days before the requested meeting. (5-17-00)

12. All construction sites, including residential and non-residential, shall provide suitable containers to hold construction debris. Owners and contractors shall be responsible for keeping construction sites clean of debris and trash. (5-17-00)

13. Site plans shall contain a note stating that the landscaping will be kept in good condition and that dead shrubs, trees, and similar items shall be replaced.
(5-17-00)

SECTION II

November 5, 1997

UNDERGROUND STORAGE TANKS

I. The minimum standard for non-residential underground storage tanks within the Town of Amherst is a fiberglass-coated or cathodic protected, 360 degree double-walled steel tank.

A. The underground storage tank shall meet the standards set forth by New Hampshire Code of Administrative Rules Part WS 411 and the Town of Amherst regulations for:

1. Label requirements

- a. Standard of design by which the tank was manufactured.
- b. Year in which the tank was manufactured.
- c. Dimensions and capacity of tank.
- d. Name of manufacturer.
- e. Date of installation.
- f. Petroleum products identified which may be stored and percentage by volume of petroleum products which may be permanently and compatibly stored within.

2. Wear Plates

- a. Must be at a minimum of 12 inches by 12 inches.
- b. Constructed of 10 gauge steel or heavier.

3. The tank must be certified pressure tested by the manufacturer for tightness.
4. Fabrication standards must meet all New Hampshire State Regulations. The thickness of the resin/fiberglass coating applied to the exterior of the double-walled steel tank shall be a minimum of 100 mils after curing.
 - a. The coating shall possess a coefficient of thermal expansion which is compatible with that of steel, such that the coating shall maintain its bonding capability with the steel tank.
 - b. The coating shall be of sufficient strength to maintain its impermeable characteristics under normal conditions.
 - c. The coating must be non corrosive under electrolytic or chemical exposure and must be compatible.

II. The minimum standard for Secondary Containment for underground storage tanks within the Town of Amherst in addition to the fiberglass-clad, double walled steel tank is an impervious synthetic liner.

A. The secondary containment barrier must meet the standard set forth by the New Hampshire Code of Administrative Rules Part WS411 and the Town of Amherst requirements. The barrier must be a petroleum insert synthetic membrane liner, 100 mils thick or membrane liner which will provide equivalent protection, installed in accordance with manufacturer's regulations.

B. The backfill must be a homogeneous sandy material, neutral/non-corrosive in nature.

C. All tanks must be anchored to resist buoyant forces in high groundwater locations and soil shifting in dry, well drained areas, in such a way as not to damage the liner.

D. The site shall be capped with asphalt or concrete, sloped to drain away from the underground storage tank.

III. The minimum standards for piping systems at underground storage tank facilities within the Town of Amherst:

A. The piping systems for underground storage tanks must meet the standards set forth by the New Hampshire Code of Administrative Rules Part WS 411 and the Town of Amherst requirements.

1. All underground pipes, fittings, and connections shall be made of fiberglass reinforced epoxy or galvanized steel. Steel pipes shall be

schedule 40 or heavier and have an approved protective coating and be cathodically protected by impressed current or sacrificial anodes.

2. All pipes shall be enclosed within a secondary containment barrier that shall be:

- a. Water-tight.
- b. Joints sealed against water and petroleum products.
- c. Equipped with a continuous gas detection/monitoring system.

3. A float vent valve shall be installed at the vent line in a tee.

4. A line leak detector on piping systems employing a remote pumping system is required.

IV. The minimum standards for monitoring underground storage tanks and associated piping systems within the Town of Amherst:

A. The monitoring systems must meet the standards set forth by the New Hampshire Code of Administrative Rules Part WS 411 and the requirements of the Town of Amherst.

1. Tank

- a. The interstitial space of the double-walled tank shall be equipped with a pressure sensing device that monitors the pressure level or vacuum in the interstitial space, or a fluid sensing monitor which detects the presence of any liquid in the normally dry air space.
- b. The system will be equipped with a visual and audible alarm.
- c. The monitoring/alarm system will be inspected monthly.
- d. The tank shall be equipped with an automatic in-tank product volume monitoring system and high level alarm system.

2. Secondary containment (tank and piping) : A secondary containment monitoring well shall be installed to the lowest point within the secondary containment.

- a. The well shall be equipped with a thermal conductivity censoring system or equivalent petroleum sensor system which will detect the presence of stored product.
- b. The system will be equipped with a visual and audible alarm.
- c. The monitoring/alarm system will be inspected monthly.

3. The proponent shall be required to maintain a daily inventory control system which shall include all incoming/outgoing transfers and dates of all monitoring inspections with results.

4. The proponent must also provide redundant backflow and overflow protection that is acceptable to the Town.
5. The cathodic protection system for the piping must be inspected monthly by the proponent.
6. If at anytime the cathodic protection system, the interstitial space monitoring system or the in-tank monitoring system are found to be defective, the tank and piping system shall be immediately tested for tightness.
7. The proponent shall submit a standard operating and maintenance procedure for the tank system as part of the permanent application.
8. Every six months a qualified manufacturer's representative shall conduct and/or witness the inspection of all monitoring systems associated with the underground storage tank and piping system.
 - a. The inspection shall include but not be limited to the following:
 - (i) Visual, electrical, and calibration testing of the interstitial system, all monitoring well petroleum sensing systems/alarms, and high level alarms.
 - (ii) All monitoring wells will be inspected for water/petroleum presence. If water is present in any well, a sample will be analyzed for benzene, toluene, xylenes, and ethyl benzene by an EPA certified laboratory.
 - b. A certified inspection report shall be submitted to the Town of Amherst within two weeks of each semi-annual inspection.
9. On a monthly basis, the tank owner will inspect all monitoring systems and alarms for electrical and calibration / sensitivity integrity.
 - a. The owner must maintain a log book which summarizes the results and problems (if any) that were identified by the inspection.
 - b. If a system (monitor or containment) experiences a failure, the owner must immediately notify the Town Officials and the owner must begin remedial/corrective action immediately.
10. In the event a spill or leak is detected, the Amherst Fire Department shall be notified immediately and all operations at the underground storage tank site must be discontinued until such time as the problem is corrected.

11. The Town reserves the right to inspect the underground storage tank system and monitoring wells, and collect samples of water for analyses, or analyze the “head space” of the monitoring wells for petroleum vapors at anytime, at the Town of Amherst’s expense.

12. The tank owner must submit to the Town of Amherst a Petroleum Release Contingency Plan which addresses identification of release, notification of release, emergency clean-up and site remediation.

13. Tank installations shall include a minimum of one up-gradient groundwater monitoring well and two down gradient groundwater monitoring wells outside of the secondary containment. Baseline sampling of the wells shall be performed prior to the introduction of product into the tank(s). At the minimum the wells shall be tested during September of each year or more frequently if specified in accordance with a groundwater monitoring plan approved by the Town. The results shall be submitted to the Town within 30 days of sampling.

V. The minimum standards for the installation of underground storage tanks, piping systems, and monitoring systems within the Town of Amherst must be performed in accordance with good engineering practice (GEP).

A. The installation of underground storage tanks, piping systems, monitoring systems, must meet the standards set forth by the New Hampshire Code of Administrative rules Part WS 411 and the Town of Amherst requirements.

1. The owner must submit plans, site plans, and specifications to the Planning Board for Planning Board and Fire Department review. The submissions must accurately describe the underground storage tank system and installation procedures and be certified by a professional engineer.

2. The installation of the underground storage tank, secondary containment, piping, monitoring system, shall be conducted under the supervision of qualified manufacturer’s representative.

3. The qualified manufacturer’s representative shall submit a detailed report to the Town of Amherst certifying that the excavation, installation, pressure testing of the tank/piping system, and monitors, were performed in accordance with acceptable engineering practice and the manufacturer’s specifications and conform to applicable State and local regulations.

AFFORDABLE HOUSING

PROJECT SUITABILITY PROCEDURE REGULATIONS

PURPOSE

The purpose of the within regulations is to provide the implementation procedure for the Affordable Housing Zoning Ordinance passed by the Town Amherst at the annual Town Meeting on March 14, 1989. Said Ordinance provides certain treatment for projects that meet the criteria set forth with respect to affordable housing and requires the Planning Board to review proposed projects as a preliminary matter to determine whether or not they are 'suitable' within the meaning of said Ordinance. Said Ordinance also provides that the Planning Board may adopt regulations governing the process whereby the Affordable Housing Ordinance is implemented and these regulations are intended to accomplish that. In that regard, these regulations are intended to provide for a preliminary review process wherein the Planning Board will determine the suitability of a particular project. Said Ordinance also establishes a maximum number of units that may be approved in any calendar year and, accordingly, the Planning Board, in order to implement said Ordinance, must establish by regulation an appropriate procedural vehicle for the acceptance, review and approval of suitable projects having in mind the limitation imposed by the Ordinance. Said regulations are also intended to provide for certain requirements to ensure that any project approved and implemented will continue to qualify as a suitable project after it is constructed.

APPLICATION PROCEDURE

1. Time for Application: Applicants seeking to have the Planning Board make a determination that its application is suitable within the meaning of Section 8-5 of the Town of Amherst Zoning Ordinance, may apply to the Planning Board for a review of its project pursuant to the conditions set forth herein. Said application shall be received from July 1 to December 31 in any given calendar year with the exception of calendar year 1989. During calendar year 1989, said applications shall be received during the period from May 1 to June 1, 1989. The discrepancy in filing dates for the calendar year 1989 arises from the fact that the Ordinance permitting this type of application was adopted on March 14, 1989 and an earlier filing date than the typical filing date is required in order to accommodate applications already received or contemplated. It is understood that applications will be received throughout the filing period and will not be reviewed until the filing date had expired. The reason for this aspect of the regulation is to enable the Planning Board to have all of the proposed applications in hand for review before a suitability determination is made with respect to any project.

2. Form of Application: An applicant desiring to apply for a suitability determination pursuant to these regulations shall make application on a form designated by the Town of Amherst Planning Board and shall contain all of the information required to enable the Planning Board to assess said proposal project with reference to the criteria set forth in section 8-5 of the Town of Amherst Zoning Ordinance. It is understood that the application process for a suitability determination under Section 8-5 is a preliminary matter and is separate and distinct from the subdivision application process and these regulations are not intended as a form of subdivision regulation. In the event that a project is found suitable, the applicant will be required to complete all formal requirements of subdivision unless such requirements are waived by the Board pursuant to Section 8-5.

3. Required Information: The applicant must present sufficient information to enable the Planning Board to identify the project as suitable within the meaning of Section 8-5. Such information may include, but is not necessarily limited to, a preliminary site plan, architectural renderings, topographical maps, landscape plans showing existing and/or proposed vegetation and other information that is necessary, in the judgment of the Planning Board, to enable the Planning Board to make as judgment as to whether or not said proposal meets the criteria set forth in Section 8-5. The Planning Board and its administrative staff shall endeavor to advise applicants, when possible, during the period in which applications are received for filing of any additional specific requirements that the Planning Board feels are necessary in order to make a proper determination as to the suitability of a particular project. Failure of an applicant to provide requested information by the time of review of such application shall result in a denial of the application.

4. Hearing Process: It is understood that the submission of an application under these regulations for a suitability determination, constitutes a preliminary filing, but the Planning Board will not make a determination as to the suitability of a particular project unless the same is done at a public hearing with notification to abutters of the proposed project in order that it may ensure proper input from abutting property owners and other persons who may be effected by the proposed project or who have any information that would be germane to the application. No hearing on any application shall be scheduled until after the filing period deadline has occurred. Once the filing deadline has occurred and the time period for application filing has expired, the Planning Board shall schedule the applications for a hearing assuming all required information has been provided to the Board. Said hearing shall be scheduled within 120 days of the close of the filing period and the Board shall make a determination with respect to the suitability of the proposed project no later than 150 days from the close of the filing period.

MAXIMUM NUMBER OF UNITS

The Planning Board is required pursuant to the terms of Section 8-5 to make a determination in January of any calendar year of the maximum number of units that it may approve pursuant to said Ordinance. For the calendar year 1989, this number shall be

determined as twenty-nine (29) and the determination required by Section 8-5 shall hereafter be made in January as indicated in the Ordinance. In the event that the number of applications for dwelling units that are approved as suitable in accordance with the foregoing procedure is equal to or less than the number permitted pursuant to said limitation then, and in that event, all of proposed applicants who meet the requirements of the Ordinance and are determined to have a suitable project shall be permitted to proceed to subdivision application process. In event that the number of units that are determined to be suitable in accordance with the foregoing procedure is greater than the number that are permitted to be approved in any calendar year then, and in that event, the Planning Board may divide the yearly total among the successful applicants and allow the balance of the units identified to be suitable for the following year. In the event that the number of applications received for units pursuant to Section 8-5 is less than the permitted limit in any given year, the Planning Board may re-open the filing period, if they so choose, to permit further applications in the event that it appears to be advisable. In the event that the Planning Board, pursuant to this section, makes a determination to divide the number of available permits among the successful applicants, the Planning Board may divide said permits in a manner which, in the judgment of the Planning Board, most clearly advances the purpose for which the Affordable Housing Ordinance was promulgated.

CONDITIONS OF APPROVAL

In order to ensure that the purpose of the Affordable Housing Ordinance is met, the applicant shall be required as a condition of the finding of suitability to provide to the Planning Board a document in the form of a Declaration of Covenants or some other type of instrument satisfactory to Counsel and the Board, in form suitable for recordation in the Hillsborough County Registry of Deeds which document will encumber the property which is the subject of the application with appropriate conditions and requirements to ensure that the sale or lease of the dwelling units proposed in said application will be restricted to those persons qualified pursuant to the definition of affordable housing contained in Section 8-5 of the Ordinance. The applicant will be required to submit a proposed form of this document in the course of the application for suitability determination and no permits for the construction of any dwelling unit approved hereunder shall be granted until such time as said document has been received by the Planning Board, reviewed and approved by Counsel and the Board and is recorded in the Hillsborough County Registry of Deeds so as to restrict the property accordingly.

In the event the Planning Board determines a project not to be suitable, the Board shall make written findings of its reasons for the same and in the event that the Planning Board divides the available permits among successful applicants in a way that favors any particular application, the Planning Board shall also make findings in the record of the proceedings indicating the justification for its apportionment. 4-26-89

Personal Wireless Service Facilities

(adopted 7-21-99)

I. Additional Application Submission Requirements — All Personal Wireless Service Facilities

A. General Filing Requirements

1) Written statement signed by the landowner and carrier that the lease between the carrier and the landowner of the subject property contains the following provisions:

a) Land owner or carrier can enter into leases with other carriers for co-location

2) A written and signed statement from the landowner and applicant that he/she agrees that the Town may enter the subject property to obtain RFR measurements, to ensure conformance with the FCC Guidelines, and to obtain noise measurements, all at the expense of the applicant, but not necessarily accompanied by, the applicant and/or landowner.

B. Location Plan Filing Requirements

1) An area-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one (1) mile of its corporate limits.

2) A town-wide map that shows all existing and reasonably foreseen or contemplated personal wireless service facilities operated by the carrier in the Town.

3) Proof by the carrier of adequate comprehensive general public liability insurance for the proposed personal wireless service facility that provides coverage for damage or injury to persons or property caused by the carrier or its facility.

C. Site Plans for all Personal Wireless Service Facilities Shall Indicate:

1) Outlines of all existing buildings, including their purpose (e.g. residential buildings, garages, accessory structures, etc.) on the subject property and within three hundred (300) feet from the subject property boundary on adjacent properties.

2) Proposed location of antenna(s), mount(s), and equipment shelter(s).

- 3) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- 4) The proposed lease area for the personal wireless service facility.
- 5) Location of all roads, public and private, on the subject property including driveways proposed to serve the personal Wireless Service facility and the type of surface proposed for the driveway.
- 6) Distances, at grade, from the proposed personal wireless service facility to each building shown on the site plan.
- 7) All proposed changes to the existing property, including but not limited to grading, vegetation removal, and temporary or permanent roads and driveways.
- 8) Representations, dimensioned and to scale, of the proposed mount(s), antennas, materials used to reduce visual impact, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.

II. Additional Site Plan Submission Requirements - Ground Mounted Personal Wireless Service Facilities:

Excluding the reconstruction of existing facilities, the following shall be shown on a site plan for all ground mounted personal wireless service facilities, in addition to those items listed under Site Plan Review

Regulations:

- A. Average tree canopy height within a one hundred and fifty (150) foot perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest.
- B. Any proposed landscape easement that includes the bearings and distances of the easement and general conditions of the easement.

III Design Submittal Standards — All Personal Wireless Service Facilities

- A. Brochures. Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters, cables as well as cable and security barrier, if any.
- B. Materials. Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted

fiberglass, etc.). These shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters, cables as well as cable runs, and security barrier, if any.

C. Colors. Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters, cables as well as cable runs, and security barrier, if any. Also include a picture of similar equipment.

D. Dimensions. Dimensions of the personal wire-less service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters and security barrier, if any.

E. Photographs. Appearance shown by at least two (2) photographic superposition's of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, materials used to reduce visual impact, equipment shelters, cables as well as cable runs, and security barrier, if any for the total height, width and breadth.

F. Lighting. If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

G. Co-location. Carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities.

- 1) All applicants for site plan review for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes contact with all the other carriers for personal wireless services operating in the Town of Amherst or in adjoining or nearby jurisdictions.
- 2) If the applicant intends to co-locate or to permit co-location, drawings and studies, which show the appearance and operation of the personal wireless service facility with maximum co-location, shall be provided.
- 3) If the Planning Board approves co-location for a personal wireless service facility site, the site plan shall indicate how many facilities and of what type shall be permitted on that site. Facilities specified in the site plan approval shall require no further zoning approval, but shall require a Building Permit. However, the addition of any facilities not specified in the approved site plan shall require a new site plan.

IV Noise Standards - All Personal Wireless Service Facilities:

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night). Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Ordinance of the Town of Amherst and such statements shall include the following:

- A. Existing or ambient: the measurements of existing noise.
- B. Existing plus the proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
- C. Existing plus the proposed personal wireless service facilities plus cumulative: maximum estimate of noise from the proposed personal wireless service facility plus the maximum estimate of noise from the total addition of co-located personal wireless service facilities plus the existing noise environment.

V. Radio Frequency Radiation (RFR) - All Personal Wireless Service Facilities:

The applicant shall provide a signed and stamped certificate by an RF Engineer stating that the maximum radio frequency radiation of the personal wireless service facility and the cumulative RFR of any existing personal wireless service facilities at the site will not exceed the FCC Guidelines. The FCC Guidelines shall be incorporated as part of this certification.

VII Environmental Filing Requirements - All Personal Wireless Service Facilities

A. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- 1) Wilderness area
- 2) Wildlife preserve
- 3) Threatened or endangered species
- 4) Historical site
- 5) Native American religious site
- 6) Floodplain
- 7) Wetland
- 8) High intensity white lights in residential neighborhoods

9) Excessive radio frequency radiation exposure

B. At the time of application, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC. In addition, a letter of concurrence substantiating the finding of the applicant for each of the NEPA checklist items shall be provided with the site plan application.

C. The applicant shall list the location, type, and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state, or county government, or by the Town of Amherst.

VII. Structural Standards for Ground Mounted Personal Wireless Service Facilities, Excluding Reconstruction of Existing Facilities

The applicant shall provide a report prepared by a licensed professional structural engineer describing the facility and specifying the maximum number and types of antennas the facility is designed to accommodate. The report shall bear the seal of the engineer that prepared the report.

VIII. Visibility Standards for Ground Mounted Personal Wireless Service Facilities, Excluding Reconstruction of Existing Facilities

A. Sight lines. Lines representing the sight line showing the viewpoint (point from which view is taken) and visible point (point being viewed) as described below:

- 1) Existing (before condition) photographs. Each sight line shall be illustrated by on four inch by six-inch or larger color photograph of what can currently be seen from any public road or residential building identified above.
- 2) Balloon Test. Within fourteen (14) days of the acceptance of the site plan application by the Planning Board, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least ten (10) days prior to the test, and the test must be left in place for a minimum of two (2) days (48 hours).
- 3) Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads and residences if the proposed personal wireless service facility is built.

B. Elevations. Siting elevations, or views at-grade from the north, south, east and west for a fifty (50) foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

- 1) Antennas, mounts, materials used to reduce visual impact, and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
- 2) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
- 3) Any and all structures on the subject property.
- 4) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- 5) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

IX Modifications to Personal Wireless Service Facilities:

A. Modification of a personal wireless service facility is considered equivalent to an application for a new personal wireless service facility and requires a site plan review when any of the following events apply:

The applicant and/or co-applicant wants to alter the terms of the site plan by changing the personal wireless service facility in one or more of the following ways:

- 1) Change in the number of facilities permitted on the site; or
- 2) Change in technology used for the personal wireless service facility that will affect the visible elements of the facility, or that would alter the amount(s) and/or type(s) of hazardous materials used at the facility.

B. The applicant and/or co-applicant wants to add any exterior visible equipment or additional height not specified in the approved site plan.

SECTION D Historic District Commission (eliminated 3-13-01)

See new Article IV, Section 4-15

SECTION E

SCENIC ROAD

Designated March 7, 1972

1. Chestnut Hill Road from Prokos' driveway (lot # 10-33) to New Boston line.
2. Eaton Road from Christian Hill to Mont Vernon Road
3. Green Road from Christian Hill to Mont Vernon Road.
4. Lyndeboro Road from NH Rte. 101 (Amherst Street) to NH Rte. 13.
5. Spring Road from Bellerose property (Lot #6-46-5) to the Merrimack line.
6. Austin Road from Mack Hill to Horace Greeley Road.
7. Ponemah Hill Road from Hollis Road to the Milford Town line.
8. Old Milford Road westerly from NH Rte. 101 (Amherst St.) to NH Rte. 101.
9. Col. Wilkins Road from Old Milford Road

Designated March 6, 1973

10. Brook Road from Horace Greeley Road to the Town Conservation Area
11. Dodge Road from the water hole below the present Town Dump (lot #6-70) to Austin Road.

Designated March 11, 1980

12. Baboosic Lake Road from Pavillion Road to the Merrimack town line.

Designated March 11, 1986

13. County Road from the junction with Ravine Road to the Souhegan River.

Designated March 17, 1989

14. Lynch Farm Road.

Designated June 15, 1989

15. Pond Parrish Road

Designated March 14, 1998

16. Mack Hill Road

NEW HAMPSHIRE REVISED STATUTES ANNOTATED

Chapter 253

Trees and Roadside Growth

253:16 Penalty Any person who violates any provision of this Chapter or any rule or regulation thereunder made by the State Commissioner of Public Works and Highways shall be guilty of a violation if a natural person, or guilty of a misdemeanor if any other person. Any person shall be liable for all damage occasioned thereby.

Scenic Roads (New)

253:17 Scenic Roads: Designation Any road in a Town, other than a Class I or Class II highway, may be designated as a scenic Road in the following manner. Upon petition of ten persons who are either voters of the Town or who own land which abuts a road mentioned in the petition, (even though not voters of the Town) the voters of such Town at any annual or special meeting may designate such road as a scenic road. Such petitioners shall be responsible for providing the Town Clerk with a list of known property owners whose land abuts any of the roads mentioned in the petition. The Town Clerk shall notify by regular mail within ten days of the filing, all abutters along the road that lies within the Town that a scenic road petition has been filed for and that an article to designate such road as a scenic road will appear in the warrant at the next Town Meeting. The voters at a regular Town Meeting may rescind in like matter their designation of a scenic road upon petition as provided above . Notice to the abutting landowners shall also be given as provided above.

253:18 Effect of Designation as Scenic Road

- I. As used in this subdivision, "tree" means any woody plant which has a circumference of fifteen inches or more at a point four feet from the ground.
- II. Upon a road being designated as a scenic road as provided in RSA 253:17, any repair, maintenance, reconstruction, or paving work done with respect thereto shall not involve or include the cutting or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the Planning Board, or any other official municipal body designated by the meeting to implement the provisions of this act, after a public hearing duly advertised as to time, date, place and purpose, two times in a newspaper of general circulation in the area, the last publication to occur at least seven days prior to such hearing provided however that a Road Agent may remove portions of trees, shrubs, vegetation, and other natural or man-made obstructions from within three feet of the main traveled portion of such road which interfere with the safe travel upon such road without such consent and provided

further that a Road Agent may, in emergency situations, cut and remove trees with the written consent of the Selectmen without such hearing.

III. Designation of a road as a scenic road shall not affect the eligibility of the Town to receive construction or reconstruction aid for such road pursuant to the provisions of RSA 241. Any application by the Selectmen of a Town for such aid for a scenic road shall include a request to the Commissioner of Public Works and Highways to suspend operation of specifications as provided in RSA 241:7, I.

IV. Designation of a road as a scenic road shall not affect the rights of any landowner with respect to work on his own property.

SECTION F

ROAD SPECIFICATIONS 1971

1. The right-of-way shall be at least 45 feet in width, which shall be cleared, all stumps removed and shall be conveyed to the Town of Amherst by Warranty Deed.
2. The roadway shall have a paved width of at least 24 feet with a 4 foot shoulder on each side of the paved section before tapering off a 4:1 slope to ditch. In embankment areas where 10 feet or more of fill is required and a 2:1 slope is used, the shoulder shall extend 6 feet beyond the edge of the pavement and standard 3 cable guard rail and anchorage's shall be installed.
3. The roadway shall be constructed in accordance with the " Typical Cross Section " on file at the Selectmen's office, and the following specifications:
 - a. Removal of all loam, muck, stumps and other improper road foundation material within the limits of the right-of-way. In embankment areas where 10 feet or more of fill is required and a 2:1 slope is used, the shoulder shall extend 6 feet beyond the edge of the pavement and standard 3 cable guard rail and anchorage's shall be installed.
 - b. Ledge and boulders shall be removed to at least 8 inches below sub-grade and replaced with sand or bank run gravel.
 - c. Proper drainage shall be installed subject to the approval of the Selectmen and the Road Agent. Natural water courses shall be cleaned and increased in size where necessary to take care of storm run-off. Drainage ditches at least 18 inches in depth at its midpoint below center line grade shall be constructed at the street right-of-way on both sides of the roadway and so designed as to provide for the proper flow of storm run-off. Culvert pipes consisting of either reinforced concrete or metal, having a minimum size of 18 inches in diameter, shall be placed with a minimum of 18 inches of cover to final grade. Culverts in embankments over 15 feet high shall be of reinforced concrete pipe of the proper class.
 - d. Base course gravel shall consist of a minimum of 12 inches of compacted bank run gravel, free from loam or organic matter. 25% to 70% shall pass a No. 4 sieve and not more than 12% of the material passing the No. 4 sieve shall pass the No. 200 sieve. No stones or rock fragments will be permitted which can not be incorporated in a 6 inch layer. The base course shall be compacted and graded to proper shape before the crushed gravel is placed.

e. Finish course gravel shall consist of 4 inches of crushed gravel with the following required grading.

Sieve Size	% by Weight Passing
3"	100
2"	95-100
1"	55-85
No. 4	27-52
No. 200	0-12% passing No. 4

f. Pavements shall consist of 3 inches of hot bituminous pavement applied in two courses, a 2 inch base course and a 1 inch wearing course. The pavements shall be applied by an approved paving contractor in accordance with the State of New Hampshire Standard Specifications for Road and Bridge Construction as Approved and Adopted in 1969.

g. Dead end streets shall be per subdivision regulations section 5-2.(1996)

h. The grade of the road shall not be more than 8% nor less than 1%.

i. Monuments of concrete or stone at least 4 inches on the top and at least 36 inches long, shall be set with 6 inches exposed above the ground, at all street corners and angles in the street line as well as at the ends of all curves. All street lines shall have monuments set a minimum of 500 feet apart.

j. Approved street signs and culvert posts shall be installed as directed by the Board of Selectmen and paid for by the developer.

4. It shall be the obligation of the developer planning a new road to do the following:

a. Advise the Selectmen of his intent in order to secure approval for the proposed right-of-way. Selectmen to notify the Road Agent and the Road Commission.

b. To request inspection and approval of the right-of-way and subgrade before base gravel is applied.

c. To request inspection and approval of the right-of-way before finish gravel is applied to bring to finish grade level.

d. The developer shall have stakes set on center line with finish grades marked on them at least every 100 feet for the entire length of the roadway or the roadway side staked with distance and grades marked, before each inspection.

5. Before final inspection, the developer shall remove all trash from the right-of-way and the center of the turn around and shall repair any damage done to the roadway, shoulders, etc. Inspections, samples and core test may be taken by the Town of Amherst before final acceptance.

6. These specifications shall take effect on March 9, 1971 and shall apply to all roads within the Town of Amherst, including Town Roads, whether in approved subdivisions or not, work on which has not progressed beyond the stage of clearing the right-of-way, together with all subdivisions approved after this date. Just a reminder to include photo of Cross section-old Ordinance Page F4

SECTION G
WATER POLLUTION CONTROL REGULATION for the TOWN OF
AMHERST

Preamble

Section 1 Purpose

Section 2 Scope

Section 3 Permits

Section 4 Fees

Section 5 Inspection and Notice

Section 6 Alteration and Repair Procedure

Section 7 New Construction Procedure

Section 8 Test Pit Procedure

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Leach field Size Requirements

WATER POLLUTION CONTROL REGULATIONS

PREAMBLE

Pursuant to the authority granted by NHRSA Chapter 147, Section I, the Board of Health of the Town of Amherst, New Hampshire consisting of Dr. James Starke and the Board of Selectmen hereby adopts the following regulations to promote the public health, safety and welfare, this 12th day of April 1976, which will become effective on May 15, 1976 and shall remain in effect until revised or amended by the aforementioned as provided by law.

Section 1 Purpose

The purpose of this Ordinance is to prevent pollution in the water supplies, ground waters and surface waters of the Town of Amherst, NH, by inadequate sewer or waste disposal systems.

Section 2 Scope

No person shall conduct any building from which sewage or waste will discharge, or construct, repair or alter any water disposal system, within the Town of Amherst, NH, without prior approval of plans and specifications by the Town of Amherst, and the New Hampshire Water Pollution Control Commission, if required, as defined in RSA 149E, and in accordance with the following regulations and procedures.

A. Hazardous Solid Waste Disposal Any person, firm, corporation or institution who removes, transports or disposes of any material containing human excrement, other putrescibles, industrial wastes, or material contaminated with petroleum distillates or hydrocarbons shall do so only with written permission from the Board of Health and its disposal shall be regulated so as not to cause any contamination of ground water or become a health or public nuisance. 9-17-84

The above notwithstanding, this rule shall apply to on- site rehabilitation of a septic system provided that the material is not transported off the lot and than an explanation on the repair application is made as to disposal of septage. 9-17-84

B. Conversion of Seasonal Properties Furthermore, no person shall convert the use of a temporary or seasonal residence into use as a full-time residence without prior approval of the existing waste disposal system or approval of plans and specifications as aforesaid.

The conversion of seasonal residences to year round uses shall not be permitted unless a septic system, which meets Town Specifications, can be installed on an area of no less than one-half (1/2) acre provided there is community or municipal water system, and three quarter (3/4) acre with private on-site well. This in no way shall restrict the repair of septic systems that are maintained for seasonal use only, seasonal use being defined as being used only during a limited time during the year of no more than a four-month continuous period. 9-17-84

C. Minimum lot size for unbuilt lots: Furthermore, the construction of a dwelling on any lot, or lot of record, shall not be permitted on an area of less than one-half (1/2) acre (21,780 square feet) where a community or municipal water system is to be used as a water supply; or three-quarters (3/4) of an acre (32,670 square feet) where private on-site well and septic system is proposed. This area shall be provided for each single family dwelling. Any more restrictive state regulations under RSA 149-E regarding minimum lot sizes shall apply. 2-24-86

Section 3 Permits

A. Permits must be applied for by the owner and receive approval by the Town of Amherst, and NHWS&PCC, if required, and all fees therefore, must be paid, prior to:

1. The altering of, or repairing of any existing waste disposal system.
2. The construction of any new waste disposal system.
3. The construction of any building from which sewage or waste will discharge.
4. The operation or use of any waste disposal system or building from which sewage or waste will discharge.
5. The conversion of the use of a temporary or seasonal residence into use as a full time residence.

Section 4 Fees

A. No permit shall be issued unless application is made in writing and accompanied by the payment of a fee, which fee shall be established from time to time by the selectmen, said fee to be paid to the Town of Amherst, NH.

B. All fees for permits and all related costs, shall be borne by the owner, contractor or developer.

Section 5 Inspections and Notice

A. Once a permit has been issued, the owner or contractor must notify the Zoning Administrator when the site is ready for inspection as follows. Failure to notify may result in the revocation of the permit and subject the owner and/or contractor to action under these regulations.

B. The following must be inspected by an official of the Town of Amherst, NH, after written notification by the owner or contractor that the site is ready for such inspection:

1. Test pits, percolation tests.
2. The prepared site of any waste disposal system.
3. Any waste disposal system under construction prior to backfilling.
4. Any waste disposal system under construction prior to operation, and after all construction is completed.

C. Inspections shall be made within forty-eight (48) hours of such notice, provided that such notice is given on working days.

D. Written approval, in the form of an Approval for Construction, Approval for Backfilling and Approval for Operation, must be obtained for each appropriate step.

Section 6 Repair Procedure (amended 6-21-93)

A. The alteration or repair of any existing waste disposal system may be subject to the requirements of New Hampshire Water Supply and Pollution Control Commission.

B. As Town of Amherst regulations for septic systems are more restrictive than State regulations, any portion of a waste disposal system being altered or repaired shall comply with all local, as well as State requirements.

C. Prior to the alteration or repair of any existing waste disposal system, the owner and contractor shall be responsible for the following:

1. Notifying the Town of Amherst Zoning Administrator of the proposed work.
2. Digging the test pit or pits.
3. Submitting an outline of the proposed work.

Section 7 New Construction or Alteration Procedure

Prior to the issuance of a permit for the construction of any waste disposal system, the owner and contractor shall be responsible for the following:

1. Notifying the Town of Amherst Zoning Administrator of the proposed work.
2. Digging the test pit or pits.
3. Performing the percolation test or tests in accordance with section 9.
4. Submitting plans and specifications.
5. Making application for and obtaining an Approval for Construction permit.

Section 8 Test Pit Procedure

The alteration, repair or construction of any waste disposal system shall be permitted only after a test pit or test pits have been dug and have been inspected, by an official of the Town of Amherst.

- A. At least one test pit shall be dug on each site that is proposed to have a waste disposal system constructed on it.
- B. At least one test pit must be located within the leaching area of the proposed waste disposal system.
- C. Sufficient test pits shall be dug to verify that a minimum area of four thousand (4000) contiguous square feet, or two (2) areas of not less than two thousand (2000) contiguous square feet each with a minimum width of not less than twenty (20) feet, exist at the site of the proposed waste disposal system.
- D. All test pits shall be dug as deep as possible.
- E. All test pits shall be inspected by an official of the Town of Amherst.
- F. Test pits and percolation tests shall be dug and will be inspected only when snow cover or frost, in the opinion of the Health Officer or Administrative Official, is of such depth that valid overall evaluation of a site is possible. 2-24-86
- G. Test pits shall not be left excavated more than forty-eight (48) hours after inspection has been completed by an official of the Town of Amherst.
- H. Determination of the Seasonal High Water Table (SHWT) as used within the meaning of these regulations, shall be as follows:
 1. The SHWT shall be determined by the visual examination of a test pit or test pits by an Official of the Town of Amherst.
 2. The following factors shall be used to determine the SHWT for any site.

- a. **USSCS Data** If the site is properly mapped (as determined by comparing the actual soil profile with the soil profile description given by the USSCS mapped soil of that site), the SHWT shall be within the range specified by the USSCS for that soil type. If the site appears to be incorrectly mapped, the USSCS Shall be contacted to provide an on-site survey to verify the correct soil type that exists on that site.
- b. **Mottling** The presence of mottling is a definite indication of the SHWT. If mottling is present within the soil profile of the test pit, the SHWT shall be considered to be at least as high as the highest mottling.
- c. **Roots** The depth of roots shall be recorded on the data sheet.
- d. **Soil Color** The soil color may be due to the presence of a SHWT. Bright yellowish-brown colored soils are usually well drained. A gray color usually indicates that the soil is saturated with water for most of the year.
- e. If the above factors are not adequately definitive, or disagreement exists between the Official of the Town of Amherst and the waste disposal system designer or his representative, the USSCS shall be contacted to provide an on-site survey to determine the SHWT for that site. This determination by the USSCS Shall be considered final.

Section 9 Percolation Test Procedure

The construction of any waste disposal system shall be permitted only after percolation test or tests have been completed as outlined below, and have been inspected by an Official of the Town of Amherst.

A. Upon examination of the test pit, the official of the Town of Amherst shall determine that soil which is least permeable and/or which may have a percolation rate which is slower than thirty (30) minutes per inch and located within eight (8) feet of the bottom of the proposed leaching system. These soils must be tested for percolation rate as follows:

- 1. At a location of not less than ten (10) feet from any test pit excavation, but within the proposed leaching area, a hole of approximately eighteen (18) inches in diameter, shall be dug to a depth of six (6) to twenty (20) inches into that soil layer to be tested. However, the hole shall not be deeper than that depth which will leave a thickness of not less than two (2) inches of undisturbed soil of that soil layer to be tested.

2. The walls and bottom of the hole shall be scraped to remove any soil smearing created during the excavation of the hole and all loose material shall be removed from the hole.
3. A layer of gravel or coarse sand shall be placed in the hole to a depth of approximately two (2) inches.
4. The hole shall then be filled with clear water to a depth that is not higher than the top of that soil layer being tested. Water shall be maintained at this level for not less than four (4) hours and preferably overnight.
 - a. If the first (6) inches of water seeps away in less than thirty (30) minutes, the water in the hole shall be maintained at the proper level for not less than one (1) hour.
 - b. If the first water seeps away at a rate too fast to allow either of the above to be performed, the hole shall be filled as high as possible to the correct level a minimum of three (3) times.
5. After the water level has been maintained for the appropriate time as specified above , a yard stick or other suitable measuring device shall be placed in the hole and a reading of the depth of water shall be recorded.
6. Additional readings shall then be recorded each fifteen minutes until three (3) consecutive readings are of equal value. These readings shall then be used to calculate the percolation rate, expressed in minutes per inch.
 - a. If Section 9, Paragraph A.4.a., applies then additional readings shall be recorded each ten (10) minutes, until three (3) consecutive readings are of equal value. These readings shall then be used to calculate the percolation rate, expressed in minutes per inch.
 - b. If Section 9, Paragraph A.4.b. applies then water shall be poured into the hole a fourth, fifth and sixth time. Readings of the rate at which this water is absorbed shall be recorded each time. The last of these three readings shall be used to calculate the percolation rate, expressed in minutes per inch. Rates faster than three (3) minutes per inch shall be recorded as three (3) minutes per inch.
7. Throughout the course of this test, it may be necessary to add water into the hole. Such additions shall be noted on the data sheet and appropriate adjustments made in the readings recorded. However, at no time shall the level of water in the hole be higher than the top of that soil layer which is being tested. If the water level is allowed to rise above the top of the soil layer being tested, the results of the test must be started over, beginning at section 9.

8. If it is not possible to obtain three (3) consecutive readings of equal value as provided above, then additional saturating must be done, and a new set of readings taken.
- B. Any soil or material which has a percolation rate of slower than thirty (30) minutes per inch is considered to be impermeable. Ledge, clay, hardpan or fragipan, "rotten ledge" and shale are considered to be impermeable, for the purpose of these regulations.
- C. If the water table is above the soil layer which must be tested, the percolation test must be postponed until the water table recedes.
- D. When, in the judgment of an Official of the Town of Amherst, the percolation rate for all soils observed within the test pit, is faster than five (5) minutes per inch, the requirement for official observation of the percolation test may be waived.
- E. Test pits and percolation tests shall be dug and will be inspected only when snow cover or frost, in the opinion of the Health Officer or Administrative Official, is of such depth that valid overall evaluation of a site is possible. 2-24-86

Section 10 Filing Procedure

To obtain approval from the Town of Amherst and the NHWS&PCC of plans and specifications for construction of any waste disposal system on any site located within the Town of Amherst, NH, the following procedure shall be followed:

A. Four (4) copies of plans and specifications as required by these regulations and by the NHWS&PCC shall be filed with the Zoning Administrator of the Town of Amherst. The plans and specifications shall include the following as well as any additional information required by the NHWS&PCC. A stamped and addressed envelope shall be provided by the applicant for forwarding of plans and specifications to the NHWS&PCC by the Town of Amherst.

1. Test pit data.
2. Percolation test data.
3. The percentage of slope of the proposed site of the waste disposal system.
4. The number of bedrooms and the number of gallons per day of estimated usage of the proposed waste disposal system.

B. Upon receipt of the above, the Town of Amherst shall review the proposed plans and specifications and proceed as follows within five (5) working days.

1. If the proposal is acceptable in that it complies with all of the requirements of these regulations, three (3) copies of the plans and specifications shall be forwarded to the NHWS&PCC and written notice of such shall be forwarded to the applicant.

2. If the proposal is not acceptable in that it fails to comply with any regulations, it shall be returned to the applicant with a listing of those items which are not in compliance.
3. Upon receipt of a revised set of plans and specifications, the Town of Amherst shall re-examine these plans to determine compliance with these regulations.

Section 11 Installation Requirements

A. The alterations, repair or construction of any waste disposal system within the Town of Amherst, shall not commence until approval has been obtained and a permit has been issued.

B. Once a permit has been approved, the waste disposal system shall be constructed in strict accordance with such plans and specifications. Any deviation from the approved plans and specifications shall be permitted only after a revised set of plans and specifications have been filed and said revised plans and specifications have received approval from the Town of Amherst and, if required from the NHWS&PCC.

C. Prior to placing the crushed rock, the loam and any other tightly packed topsoil or sub soil shall be removed from underneath the area of the leaching system and any associated extension of fill area. If such removal results in the creation of an elevation that is too low to comply with the requirements of the approved plans and specifications, fill must be added to establish the proper elevation.

D. The removal of the upper soil layers during the initial construction phase, shall be accomplished with a minimum of travel by machine over the leaching area. The soil surface shall then be raked, if necessary, to remove any smearing, of the soil surface. During the rest of the rest of the construction process, driving of any rubber tired vehicle or heavy equipment of any kind over the leaching area, is prohibited.

E. Directly underneath the crushed rock, a layer of not less than six (6) inches of sand or fine gravel with stone not more than one (1) inch in diameter with a percolation rate of not more than one (1) minute per inch, shall be placed, if such material does not already exist there naturally.

F. Crushed rock used in the construction of any leaching system shall be uniform in size, free of dirt and range in size from 3/4 inches to 1 and 1/2 inches, and shall be installed to a minimum depth below the leaching pipe, drywell or other effluent distributor, in accordance with the following table:

<u>Percolation Rate (Min/Inch)</u>	<u>Minimum Depth of Stone</u>
Less than 5 minutes	6 inches
6 to 30 minutes	10 inches

G. Prior to backfilling any leaching system, a cover of untreated building paper or a layer of hay not less than two (2) inches thick when compacted, shall be placed over the crushed rock.

H. Backfilled soil over the leaching system shall have a minimum depth of ten (10) inches and a maximum depth of eighteen (18) inches, as measured from the top of the crushed rock to the top surface of the backfill and a percolation rate of not slower than twenty (20) minutes per inch.

I. Only septic tanks which are constructed of reinforced concrete shall be permitted. A liquid capacity below the outlet of not less than 250 gallons per bedroom or 750 gallons, whichever is larger, shall be provided by the septic tank.

Section 12 Specific Requirements

The following specific regulations must be complied with when designing, altering, repairing or constructing any waste disposal system within the Town of Amherst, New Hampshire.

A. No leaching type of waste disposal system shall be constructed on any site which has less than five (5) feet of natural (original) soil above any impermeable material as defined by Section 9, Paragraph B. of these regulations.

B. No leaching type of waste disposal system shall be constructed on any site which has less than one (1) foot of natural (original) soil above the highest level of the SHWT as determined by Section 8, Paragraph H of these regulations.

C. No leaching type of waste disposal system shall be constructed on any site which has a natural (original) slope that is steeper than 25%.

D. No part of any leaching type of waste disposal system shall be constructed less than seventy-five (75) feet if the percolation rate is slower than five (5) minutes per inch, or less than one hundred (100) feet if the percolation rate is five (5) minutes per inch or faster, from any well or proposed well.

E. No leaching type of waste disposal system for a new building shall be constructed on any site which has an area less than four thousand (4000) square feet PER SINGLE FAMILY UNIT which meet regulations. This area shall be shown on plans filed for approval.

F. No leaching type of waste disposal system shall be constructed less than four (4) feet above the highest level of the SHWT as determined in accordance with Section 8, Paragraph H, of these regulations. This measurement to be taken from the bottom of the crushed rock in the leaching system to the highest level of the SHWT.

G. No leaching type of waste disposal system shall be constructed less than eight (8) feet above any impermeable material as defined by Section 9, Paragraph B, of these regulations. This measurement to be taken from the bottom of the crushed rock in the leaching system to the top of the impermeable material.

H. All waste disposal systems shall be located on the lot in such a way as to provide ready access to the septic tank for pumping and any other maintenance.

I. If such unique conditions exist on the proposed site, in addition to those previously covered by these regulations, which could endanger the successful operation of the proposed waste disposal system, the Official of the Town of Amherst may require such additional information as he deems necessary to verify that the site will support the proposed waste system.

J. If a site has such physical limitations that a leaching type of waste disposal system cannot be designed and built so as to comply with these regulations, that site shall not be approved until such time as new evidence that a system can be designed and built is presented to the Zoning Administrator of the Town of Amherst, or alternate systems of waste disposal are available and approved by the Town of Amherst Board of Health.

K. No waste disposal system shall be installed within ten (10) feet of a road right-of-way.

L. In the blue shaded area of the U.S.G.S. map, sanitary waste water discharge to subsurface septic leaching systems shall not exceed one thousand (1000) gallons per acre per day. 10-24-88 (6-21-93)

In the blue shaded areas of the U.S.G.S. map, any area reserved for subsurface septic disposal systems shall; be a minimum of one hundred (100) feet from any surface water or wetland soils as defined in the Zoning Ordinance or Water Pollution Control Regulations. 10-24-88

In porous sand and gravel soils within the blue shaded areas on U.S.G.S. maps, with a perc rate of five (5) minutes per inch or less, the bottom of the leaching area shall be constructed a minimum of five (5) feet above SHWT. 10-24-88

Blue shaded areas on U.S.G.S. maps shall be plotted on septic plans submitted for approval, or a statement made to the effect that the land falls outside of the blue shaded areas. 10-24-88

M. When fill is used during the construction of waste disposal systems, it shall be installed in accordance with the following:

1. Fill shall be placed in layers of not more than ten (10) inches in thickness, and each layer shall be compacted as it is placed so that the completed fill shall be stable and subject to a minimum of settling.
2. Fill shall not have particle sizes greater than six (6) inches, and shall have a percolation rate of not slower than twenty (20) minutes per inch.
3. When the top level of any fill material is above the elevation of the adjacent natural (original) ground elevation, the fill must extend beyond the edge of the leaching system for a distance of not less than five (5) feet, at the same elevation as the top of the leaching system before sloping down to the natural (original) ground surface at a slope of not steeper than 33% (18 degrees) and a barrier of impermeable material shall be installed to prevent lateral breakout through the sidewall of the built up fill material. 9-17-90

N. A leaching field shall not be more than forty (40) feet in length unless a 'butterfly type' of design is used. No straight run or pipe shall be longer than forty (40) feet in length.

O. No leaching system shall be constructed in the Town of Amherst Having a leaching area of less than six hundred (600) square feet or two hundred and fifty (250) square feet per bedroom or two (2) square feet per gallon of usage per day, whichever is larger.

P. When these regulations conflict with any other applicable regulations, the more stringent regulations shall be complied with.

Q. The water from a sump pump, foundation drain, eavestrough or other ground or surface water drainage system shall not be discharged into any waste disposal system.

R. Where a pre-cast, pot-type, drywell or aeration chamber type of waste disposal system can be approved because of presence of group one soils, a 40% reduction in leaching area size is permitted for residential uses.

S. No leach field, dry well or any other system which discharges sewage effluent into surrounding soils shall be constructed within seventy-five (75) feet of surface waters as defined in Section 15.

T. Geo-flow or equivalent leaching pipe systems with ten (10) inch diameter, designed and installed in accordance with NH DES conditions of approval, may be substituted for conventional leaching pipe systems, subject also to the following:

1. The overall leaching bed area shall be determined in accordance with the requirements of Section 12. No reduction in size is allowed.

2. The substitution shall be allowed only on a site/s where group one (1) soils are found. 9-17-90

Section 13 Operation Certificate

A. When construction of any waste disposal system is completed in accordance with these regulations, the owner or contractor shall notify the Zoning Administrator of the Town of Amherst of such completion, and an Official of the Town of Amherst shall inspect the completed system within forty-eight (48) hours of such notice, provided that such notice is given on working days; and if satisfied that the system is operable in accordance with these regulations, said Official shall thereupon issue an Approval for Operation for that waste disposal system.

B. No person shall occupy or offer for occupancy any building from which sewage or waste shall be discharged unless all foregoing regulations have been complied with and an Official of the Town of Amherst shall have issued an Approval for Operation and the NHWS&PCC has issued an Approval for Operations, if required.

Section 14 Miscellaneous Provisions

A. No septic lagoons or cesspools shall be permitted in the Town of Amherst, NH.

B. The contents of chemical or mechanical toilets shall be disposed of in manner and location approved by the Amherst Board of Health.

C. Pumping out of septic tanks as required for maintenance shall not require a permit nor the payment of a fee, but should be done only by persons or firms authorized under State Law.

D. Notwithstanding the foregoing, upon written application to the Board of Health of the Town of Amherst, a permit may be issued for any waste disposal system that does not conform to the foregoing regulations, when, in the judgment of said Board of Health, such system complies with the spirit and interest of this Ordinance, and the use of same will not constitute a hazard to the public health. Said Board of Health may grant such approval subject to any conditions regulating the use of same, which are deemed necessary, and in the best interest of the public health.

E. The regulations established from time to time by the NHWS&PCC regulating the activities herein, shall constitute the minimum standards to be complied with and the same are incorporated herein by reference but nothing herein shall be construed to preclude the imposition by the Town of Amherst of more stringent regulations pertaining to the activities regulated hereunder.

F. Repairs. Where, in the opinion of the Administrative or Building Official, with the agreement of the Health Officer, the mandatory requirements of these Water Pollution Control Regulations would impose an unnecessary hardship upon an applicant proposing to repair or replace an existing septic system, such requirements may be waived so as to provide reasonable and functioning facilities. 10-24-88

Any person aggrieved by a decision of the Zoning Administrator or Health Officer, may appeal such decision to the Amherst Board of Health.

Section 15 Definitions

Breakout The above ground escape of effluent from a leaching system.

Cesspool An underground pit with open-jointed lining into which is discharged raw or partially treated sewage or other essentially untreated wastes and from which the liquid seeps or leaches into the surrounding soils.

Clay Barrier An impermeable dike placed around a raised leaching area to reduce the possibility of effluent from breaking out above ground.

Contractor Any person or firm retained for the purpose of altering, repairing, installing or otherwise constructing waste disposal systems or parts thereof.

Effluent Wastewater, which has been partially or completely treated, flowing from a septic tank, treatment process, or treatment plant.

Fragipan A compact soil layer high in silt and very fine sand and generally low in clay. It is quite dense and has very little pore space. The fragipan retards the downward movement of water and roots. Permeability is moderately slow to slow. When dry, the layers are very hard and difficult to dig.

Hardpan See Fragipan

Impermeable See section 9, Paragraph B.

Leaching Disposal of a liquid through a porous material by downward or lateral drainage into the surrounding permeable soil.

Leaching Area That portion of any waste disposal system which is designed to dispose of liquid or liquid waste by the process of leaching.

NHWS&PCC The New Hampshire Water Supply and Pollution Control Commission.

Official of the Town of Amherst Zoning Administrator or Health Officer or Board of Health.

Percolation Test A standard test which measures the rate of absorption of water into soil under controlled conditions, used to estimate suitability of the soil for receiving sewage effluent. Expressed as the number of minutes required for water to drop one (1) inch in a test hole.

Permeable Any soil or material which has a percolation rate that is (30) thirty minutes per inch or faster, shall be considered to be permeable.

Restaurant Any room or rooms regularly used and kept open for the serving or consumption on the premises of meals to guests for compensation which has accommodations for seating at tables or standing at a bar or counter of at least (20) twenty guests therein at one time. 5-6-85

Saturating The process of supplying soil with clear water for a sufficient length of time such that the soil has absorbed enough water to complete that soil's swelling process such that the soil is no longer absorbing water but rather is transmitting water on to the adjacent soil.

Seasonal High Water Table The highest level to which ground water rises during the wet season of the year. The top of the seasonal high water table may be perched on top of or above an impermeable material or layer or soil.

Septic A condition produced by the growth of coliform organisms. If severe, the wastewater turns black, giving off foul odors and creating a heavy oxygen demand.

Septic Lagoon An open cavity in the ground into which is discharged raw or partially treated sewage or other essentially untreated wastes.

Septic Tank A settling unit designed to substantially remove solids from sewage or waste water.

Sewage The water-carried waste products from buildings, public or private, together with such ground water infiltration and surface water as may be present.

SHWT Seasonal High Water Table.

Site Within the meaning of these regulations, shall be that area of land which is occupied or proposed to be occupied by a waste disposal system, including the area of the waste disposal system itself and the adjacent land for a distance of ten (10) feet beyond the edges of the waste disposal system.

Slope The incline of the ground in relation to level. When expressed in percent, is defined as the number of inches of vertical deviation from level to the ground surface for each one hundred (100) inches of horizontal distance traveled from a point of beginning.

Smearing The crushing and sliding of the surface of soil into the soil itself, thereby greatly reducing the permeability of that soil surface.

State Approved Alternative Systems Alternative Systems Approved by New Hampshire Water Supply and Pollution Control.

Surface Waters Any and all rivers, streams, creeks, rivulets, lakes, dammed water, ponds, springs, marshes, tidal waters, and all other bodies of surface waters, or parts thereof, whether natural or artificial, intermittent or not, within the jurisdiction of the Town of Amherst, NH.

Test Pit A hole dug into the ground to allow visual inspection of the soil profile.

USSCS The United States Department of Agriculture, Soil Conservation Service.

Waste Disposal System Any sewerage disposal or treatment system, which receives either sewage or other wastes, or both. Examples are: septic tank soil absorption systems, privies or dry pit toilets, incinerator type toilets (gas operated, electric, fossil fueled or any combination thereof), and holding tank systems.
Summary of Size requirements: See L / Section 12 WSPC

SECTION H

BUILDING CODE/BUILDING ORDINANCE for the Town of Amherst (Enacted March 1983)

SECTION I Title

These regulations shall be known and cited as the Building Ordinance of the Town of Amherst, New Hampshire and shall be construed to insure public safety and health insofar as they are dependent upon building construction.

SECTION II Minimum Requirements

The provisions of this Ordinance shall be held to be the minimum requirements for the preservation of life and health and safety of the inhabitants of the Town of Amherst and shall be controlling as to all buildings and structures subject to this Ordinance, except where more stringent requirements are provided under the statutes of the State of New Hampshire.

SECTION III Other Town Regulations

No provisions of the Town Zoning Ordinance or any other legal statute pertaining to the location, use or construction of buildings shall be nullified by the provisions of this Ordinance.

SECTION IV Administration

The provisions of this Ordinance and enforcement of its requirements will be by the Board of Selectmen and/or the Building Official. When, in the course of administering the terms of this Ordinance, a question is raised as to detail not completely covered herein, reference to and conformance with the BOCA Basic Building Code as published by the Building Officials and Code Administrators International, Inc., in effect at the date of application for a building permit, shall be considered prima facie evidence of conformance with the objectives of this Ordinance. In the absence of a Building Official, the Board of Selectmen shall perform his duties.

SECTION V Permits

A permit issued by the Building Official shall be required before beginning operations of placement of foundations, alterations, repair, or placement on a lot of a building or structure. Applications for permits shall be submitted in such form as the Building Official prescribes and shall be signed by the Owner.

SECTION VI Plans

Applications for permits shall be accompanied by plans with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. The Building Official may waive the requirement for filing plans when the work involved is of a minor nature.

SECTION VII A. Performance

All work performed under Building Permits shall conform to the plans and specifications filed with the application.

SECTION VII B. Site Maintenance

Prior to the start of any construction on a site, provisions shall be made to properly manage and contain all solid waste and construction debris (i.e. construction, demolition and miscellaneous trash) to prevent such solid waste or debris from becoming a threat to public health and safety or a nuisance on the site or in the surrounding area. Proper management and containment shall include providing an enclosed area, covered container or other means, proportional to the job being done, to contain the solid waste or debris. Further, all solid waste and debris shall be placed in the enclosed area or container and the entire job site picked-up every day, including any solid waste or debris in the public ways surrounding the job site. All solid waste and debris is to be removed from the site for legal disposal prior to the issuance of a Certificate of Occupancy.

SECTION VIII Limitation of Permit

All permits expire two (2) years after date of approval.

SECTION IX Certificate of Occupancy

No building or structure erected or altered as specified in a permit issued under the terms of this Ordinance shall be occupied or used, as a whole or in part, until a Certificate of Occupancy has been issued by the Building Official. Upon the request of the holder of a permit, the Building Official may issue a temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed provided such portion or portions may be occupied

safely prior to full completion of the building or structure without endangering life or public welfare.

SECTION X Board of Adjustment

An applicant for a building permit whose application has been refused by the Building Official, or parties who have been ordered by the Building Official to incur expense in connection with construction, or parties aggrieved by a decision of the Building Official on a matter left by this Ordinance to his approval or discretion, may appeal from such action by filing within fourteen days from date of refusal, order or decision, a written appeal, signed by the owner of property involved, with the Zoning Board of Adjustment.

If the decision of the Building Official is affirmed by the Board of Adjustment, the ruling of the Building Official shall be final. If the action of the Building Official is modified or annulled, the Building Official shall issue a permit or order in accordance with the decision of the Board. The Board of Adjustment shall hold a public hearing on all appeals under the foregoing and shall give notice thereof in the manner required for appeals.

SECTION XI Saving Clause

Nothing in this Ordinance as adopted shall be construed to affect any suit or proceeding now in progress, or any rights acquired, or liability incurred, or any cause or causes of actions accrued or existing under any Town Ordinance.

SECTION XII Validity

The invalidity of any section or provision of this Ordinance, hereby adopted, shall not invalidate other sections or provisions thereof.

SECTION XIII Fees for Permits

A fee shall be charged for all permits issued under the terms of this Ordinance as determined by the Board of Selectmen.

SECTION XIV Enforcement

Upon any well founded information that this Ordinance is being violated, the Board of Selectmen shall, on their own initiative, take steps to enforce the provisions of

this Ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of this Ordinance shall be punished on conviction by a fine not exceeding \$50.00 for each day of delay in correcting the violation.

SECTION XV Effective Date

This Ordinance as amended shall become effective upon its passage and adoption by action of a regular Town Meeting.

SECTION XVI Building Code (Amended March 12, 1996)

Enacted pursuant to RSA 674L52, the BOCA National Building Code, as recommended and maintained by the Building Officials and Code Administrators International, Inc; specifically the edition published in 1993 together with any amendments thereto, incorporate the same by reference into its local ordinances (Penalties under RSA 676:15-17.)

SECTION XVII Plumbing

Reference to and compliance with the requirements of the BOCA Basic Building Code as published by the Building Officials and Code Administrators International, Inc., in effect at the date of application for a building permit, shall be considered prima facie evidence of conformance with the objectives of this Ordinance.

SECTION XVIII Electrical

Reference to and compliance with the requirements of the National Electrical Code, in effect at the date of application for a building permit, shall be considered prima facie evidence of conformance with the objectives of this Ordinance.
(Adopted March 1983)

SECTION J

APPLICABLE STATE STATUTES

NH RSA CHAPTER	TOPIC
672	Zoning Regulations Authority to Establish Historic Districts Tax Maps
673	Planning Boards
674	Master Plan of the Municipality Official Map of the Municipality Regulation of the Subdivision of Land Building within Bed of Mapped Streets Appeals and Court Review Regional Planning Commissions Miscellaneous Provisions
36A	Conservation Commission
675:2	Building Codes
147:23	Public Dumps Private Disposal Site
155B	Hazardous and Dilapidated Buildings
676:11	Inspector of Buildings Approval of Building Plans
236	Access to Highways Control of Junk Yards Junk Yards Motor Vehicle Junk Yards
231:157	Scenic Roads
424	Airport Zoning

SECTION K

AMHERST HISTORIC DISTRICT REGULATIONS

January 17, 1991

These regulations are promulgated under the authority of and in accordance with RSA 674 and 675.

I. PURPOSES

- 1.01 The purpose of these Regulations is to guide construction, maintenance and rehabilitation of properties in the Amherst Historic District so as to preserve the distinctive character and integrity of the district. The Regulations are intended to ensure that properties in the district are not altered inappropriately. The goal in developing these Regulations is to set up clear and objective rules so that decisions and permits are not based on the personal tastes and preferences of Commission members reviewing proposals for change.
- 1.02 Whenever an application for the construction, maintenance or rehabilitation of a property in the Amherst Historic District is received, the Historic District Commission shall consider said application and if the commission finds that the applicant meets the general criteria set forth herein, it shall grant the requested permit.

II. GENERAL CRITERIA

- 2.01 In making a determination on an application, the Historic District Commission shall take into account these Regulations as follows:
 - (a) the historical, architectural, or cultural value of subject buildings, structures or landscapes and their relationship and contribution to the setting;
 - (b) the compatibility of the exterior design, arrangement of elements, texture and materials proposed to be used in relationship to existing buildings or structures and their setting;
 - (c) the scale and general size of new construction in relationship to existing surroundings, with consideration of such factors as height, width, street frontage, number of stories, roof type, (windows, doors etc.) and architectural details;
 - (d) other factors, including yards, off-street parking, screening, fencing, entrance drives, sidewalks, signs, lights and/or landscaping which might affect the character of any building or structure within the district, and similar factors which relate to the setting for such structure or grouping of structures; the impact that the applicant's proposal will have on the setting

and the extent to which it will preserve and enhance the historical, architectural and cultural qualities of the district and community. structures or sites which are architecturally important as unique constructions or as exceptionally fine examples of their period, region or style (Significant Structures) should be altered only so as to conform more closely to their original or most characteristic appearance. In such cases the original appearance must be determined through convincing documentation b the applicant.

These regulations shall be most strictly enforced for structures, facilities, and conditions within the public view. The public view shall include neighboring properties to the extent that the structure, facility, or condition may be reasonably observed from neighboring property.

The Commission shall have the discretion to waive any condition contained in these regulations for good cause shown. (10/16/00)

III. PRESERVATION GUIDELINES

- 3.01 For guidance and recommendations on rehabilitation, preservation and maintenance homeowners are encouraged to refer to the U.S. Secretary of the Interior's Standards for Rehabilitation.
- 3.02 The Commission shall be guided by the following principals:
 - (a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
 - (b) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historical material or distinctive architectural features should be avoided when possible, and additions or changes inconsistent with these goals should be discouraged.
 - (c) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (d) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

IV. RELOCATION AND DEMOLITION

4.01 Buildings shall not be demolished or removed from their present sites except for good cause shown. Applicants shall have made a reasonable effort to maintain the existing structure on the existing site.

V. MINIMUM MAINTENANCE

5.01 Owners of all buildings shall provide sufficient maintenance to keep such buildings from falling into a state of disrepair. Owners shall therefore be responsible for taking at least the minimum steps necessary to prevent the deterioration of components which could cause an unsafe condition or a detrimental effect upon the character of the historic district or which could lead to a later claim that deterioration has become so advanced that demolition or removal of architectural features is necessary.

5.02 In cases where deterioration has already progressed to an advanced state, and where immediate removal is requested by the owner, the standards for review of demolition contained in the U. S. Secretary of the Interior's Standards for Rehabilitation shall be applied. In all cases, where at all applicable, non-structural architectural features shall be repaired. In situations where it is impracticable to repair these features or prohibitively expensive to replicate them, they shall be stored and not discarded.

VI. CHANGES TO EXISTING STRUCTURES

6.01 The historical architectural character of a building or structure -- expressed by design, style rhythm, form, massing, scale, proportions, features and materials -- shall be maintained or restored. When a change is proposed, significant existing materials and elements shall be retained whenever possible.

6.02 Use of synthetic (typically, aluminum or vinyl) siding shall not be permitted. Structures including fencing shall be constructed from natural materials (i.e. no vinyl, plastic, PVC or chain link) 3-18-99

6.03 Any new design elements introduced shall respect the character and history of the building. The design of such elements shall not seek to create an appearance earlier than that appropriate for the building.

6.04 The choice of color is not regulated, but it is recommended that colors be compatible with those used on other historical buildings in the neighborhood.

6.05 Existing historical doors shall be retained and rehabilitated wherever possible. Where doorways must be altered, doors and entranceways shall be designed to respect the exterior architectural integrity of the building. Storm doors and screen doors shall have plain -- not scalloped or cross buck -- stiles, rails and panels and shall not have false "historical" hardware".

6.06 Existing historical windows shall be retained and repaired wherever possible. Where replacement is essential, new windows should match the originals or be in character with the building as may be reasonably achievable. The original window type (hung sash, casement, pivot, etc.) should be retained as should the configuration of the individual panes of glass formed by the muntin grid. Multi-paned sash should have true panes formed by true muntins and should not utilize applied or embedded muntin grids. The original width and depth of the individual elements (such as exterior molding and/or casing, exterior frame, exterior sash members and exterior muntins) should be reproduced or be closely approximated. For windows added as a part of an addition or new windows in the existing structure, the above regulations are recommended practices.

6.07 Features which give a roof historical character shall be preserved or restored to the extent that such features are visible from the ground. Principal considerations include the original roof shape; original roofing materials or materials compatible with the old in composition, size, shape, color and texture; architectural details such as dormer windows, monitors, cupolas, cornices, bargeboards, brackets, chimneys, cresting and weathervanes.

6.08 Outdoor mechanical equipment (ducts, fans, air conditioners, etc.) shall be installed in locations which create the least disturbance to the historical appearance of the building and which involve the minimum alteration to its structural integrity. Landscape buffers may be used.

VII. CONSTRUCTION OF NEW BUILDINGS

7.01 New construction shall be complementary to the configuration of existing buildings and streetscapes, including in height and width, and shall be governed by these Regulations as appropriately interpreted for new construction.

VIII. STREETSCAPE

8.01 The establishment of off-street parking shall be encouraged to be placed to the rear of buildings where such is reasonable and available, and fenced or screened with appropriate plantings.

8.02 Any alterations requiring changes to the topography of any property which shall materially change the landscape shall require an application to the Historic District Commission. Where changes in the existing ground level are necessitated by installation of foundations or sewage systems, etc., the Commission may require appropriate fill, grading or planting to render the altered area compatible with its surroundings.

8.03 Reasonable efforts to preserve historical and traditional markings for property boundaries and grounds -- such as stonewalls, fences and tree borders -- should be undertaken. Replication or extensions may be introduced where appropriate. Extensions such as fencing must be made of natural materials. (3-9-99)

8.04 The visual impact of telephone and electrical wires and meters as well as all other utility structures and equipment shall be minimized. Meters shall not be placed on the primary facade of a building but shall be located so as not to limit access by public service personnel. Personal wireless service facilities, as defined by the Telecommunications Act of 1996, and including accessory and related structures, must use concealment techniques and/or engineering designs which minimize the height and visibility of any structures, including designs which promote the use of any existing structures, to the extent technologically the character and integrity of the Historic District. Applicants must demonstrate that they have met or attempted to meet this standard utilizing state of the art technology and alternatives before approval by the Board.

8.05 Public visibility of any of the following may be ordered to be minimized or concealed where the condition is to not be in character with the Historic District:

Man-made decorative objects, large or obtrusive personal property, equipment and machinery, such as bulldozers, storage sheds or outbuildings, landscaping features, and modern appurtenances such as above ground pools, tennis courts, antennae and trash receptacles.

8.06 It is recommended that mailboxes be black. Newspaper holders/containers are prohibited.

IX. FENCES

9.01 Amherst Village was built in the era of 1770 to 1840, therefore the Commission feels fencing in the district should always be in keeping with the period of architecture.

9.02 The purpose of the fencing must be clearly defined when applying for a permit. Acceptable reasons include aesthetics, protection, and privacy.

9.03 Granite posts with wooden rails, picket fencing and post and rail are accepted styles and are compatible with the historic homes.

9.04 A variety of connecting fences along a property line is discouraged. Any fence along the front of a building should always continue with the same style of fencing on the property sides (lines) as far as visible.

9.05 Lattice fencing is encouraged for pools and privacy. Chain link, woven wood and stockade fencing are all considered inappropriate.

9.06 In choosing the proper fence the following should be considered:

- (a) Architectural period of the house
- (b) Neighboring properties
- (c) Existing fences in the neighborhood
- (d) Height and style in relation to the house

9.07 Picket fencing is considered appropriate for colonial homes. The following should be used as a guideline for picket fences:

9.08 The following are to be considered when applying for a fencing permit.

- (a) Authentic reproductions are suitable, pleasant, and enhance property values.
- (b) With few exceptions fences should be painted white.
- (c) Fencing shall not restrict views of neighbors.
- (d) When flat fencing is necessary plantings should be used for screening where the fence is visible.
- (e) The fence should contribute to the property and not detract from it.

X. NEW EXTERIOR ADDITIONS (3-16-00)

10.01 Significant historic materials and features should be preserved.

- a. The design of an addition on a primary elevation or other character-defining elevation must not materially obscure, damage, diminish, or otherwise negatively impact the primary elevation or other character-defining features of that structure.
- b. Minimize loss of historic material comprising external walls.

10.02 The design of the new addition should complement, not compete with or detract from, the historic character of the original structure.

- a. Make the scale, massing, and proportions of the new addition compatible with the original building to ensure that its historic form is not lost or compromised.
- b. Locate or set back the new addition on a secondary or inconspicuous elevation so that the new work does not result in a radical change to the historic form and character of the building from its primary view(s).

10.03 The historic character of the original structure shall be protected so that the old work remains visually distinct.

- a. Consider the new addition both in terms of the use and the appearance of other buildings in the historic district. The new addition may reference design motifs from the historic building to which it is attached. However, it should complement, not compete with or detract from, the original historic structure in terms of massing, scale, proportions, materials, texture, and detailing.

10.04 Historic and other character-defining settings around the structure shall be preserved.

- a. New additions should be compatible with the historic character of the immediate setting as well as the surrounding and neighboring areas and structures. Historic relationships within the setting and surrounding area should be preserved in terms of massing, scale, design, material, texture, and relationship of solids to voids.

XI. ADMINISTRATIVE RULES (deleted 10/19/00)

AMHERST HISTORIC DISTRICT COMMISSION

RULES OF PROCEDURE

(Adopted October 19, 2000)

I. GENERAL

- 1.01 Authority. The Amherst Historic District Commission (hereinafter the Commission) was established by the voters of the Town of Amherst at Town Meeting of March 1970 and by adoption of Article IV, Section 4-15, Historic District (HD), of the Zoning Ordinance at Town Meeting of March 11, 1986. Pursuant to RSA § 676:1, the Commission has adopted these Rules of Procedure to prescribe the method of conducting its business in conformance with RSA § 672, RSA § 673, RSA § 674, RSA § 676, RSA § 677, and RSA § 91-A. Amendments to these Rules of Procedure shall be adopted at a regular meeting of the Commission pursuant to RSA § 675:6 and shall be placed on file with the Zoning Administrator for public inspection.
- 1.02 Interpretation. These Rules of Procedure are based upon the most current statutes governing land use boards as of its writing (updated with legislation through Chapter 331 of the 1999 Session of the General Court, which convened on January 6, 1999). Whenever the requirements of these Rules of Procedure are at variance with those of any other lawfully adopted rules, regulations, ordinances, or statutes, the requirements that are most restrictive or that impose the higher standard shall govern.
- 1.03 Severability. If any section, subsection, sentence, clause, phrase or other part of these Rules of Procedure is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Rules of Procedure.
- 1.04 Definitions. Unless specifically defined below, words or phrases in these Rules of Procedure shall be interpreted to give them the same meaning as they have in the Amherst Zoning Ordinance and/or in common usage so as to give these rules their most reasonable application.
- a. Abutter.** Any person whose property is located in the Amherst Village Historic District and adjoins or is directly across the street or stream from the land under consideration by the Commission. For purposes of receiving testimony only and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his property will be directly affected by the proposal under consideration.
- b. Alteration.** Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

- c. Alternate Member.** A member of the Commission who, at the direction of the chairperson, serves in the absence or disqualification of a regular member of the Commission.
- d. Applicant(s).** The owner(s) of the property.
- e. Building.** Any structure that has a roof and is intended to shelter people, animals or chattel.
- f. Building Permit (or Permit).** A certificate issued by the Zoning Administrator permitting the building, alteration, installation, repair, or change of buildings, land, or uses as regulated by the Zoning Ordinance.
- g. Certificate of Approval (or Certificate).** A certificate issued by the Historic District Commission indicating its approval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within a Historic District.
- h. Certified Local Government.** A city or town that has met specific standards enabling participation in certain National Historic Preservation Act programs.
- i. Change of Use.** A change in how a structure or place is utilized or developed, whether for industrial, commercial, residential or agricultural purposes.
- j. Character.** The aggregate of visible historic and architectural features and traits that together form the individual nature of an historic district.
- k. Commission.** Commission shall mean the Historic District Commission of the Town of Amherst, New Hampshire.
- l. Completed Application.** A completed application means that, in the discretion of the Commission, sufficient information is included or submitted to allow the Commission to proceed with consideration and to make an informed decision.
- m. Conservation Restriction.** A right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will, or other instrument executed by or on behalf of the owner of the area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space or forest use, or in any other use or condition consistent with the protection of environmental quality.
- n. Construction.** The act of adding an addition to an existing structure or the erection of a new principal accessory or structure on a lot or property.

- o. Contributing Property.** A structure or site in the historic district that generally has historic, cultural, social, economic, political, or architectural significance.
- p. Demolition.** Any act or process that destroys in part or in whole a landmark or structure.
- q. Design Guidelines (or Guidelines).** Standards of appropriate design and activity developed by the Commission which offers property owners guidance in preserving the historic and architectural character of a structure, setting, or place, and which standards shall include the *Secretary of the Interior's Standards for Rehabilitation*. (See *Regulations*.)
- r. Elevation.** The orthographic projection of an object or structure on a vertical picture plane parallel to one of its sides, and usually drawn to scale.
- s. Ex Officio Member.** Any member of the Commission who holds office by virtue of an official position and who shall exercise all the powers of a regular member of the Commission.
- t. Appearance.** The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.
- u. Historic Property (or Historic Resource).** Any prehistoric or historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, social, economic, political, or architectural significance.
- v. Historic District.** An area designated by ordinance of the Town of Amherst and which contains within definable geographic boundaries a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.
- w. Historic District Zoning Overlay.** That portion of the Zoning Ordinance that regulates the alteration, repair, construction, adding onto, moving, demolishing, or changing the use of a structure or place within the historic district, which is superimposed over pre-existing zoning district(s).
- x. Maintenance.** Ordinary maintenance and repair of any architectural feature that does not involve removal or a change in design, dimensions, materials or outer appearance of such feature.

y. **Massing.** A unified composition of two-dimensional shapes and three dimensional volumes that defines the form of a structure in general outline rather than in detail and gives the impression of weight, density, and bulk.

z. **Moving.** Any relocation or removal of a structure on its site or to another site.

aa. **National Register of Historic Places (or National Register).** Official inventory of "districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture."

bb. **Non-Contributing Property.** A structure or site in the historic district that generally does not have historic, cultural, social, economic, political, or architectural significance.

cc. **Notice of Disapproval (or Notice).** A written notice issued by the Historic District Commission indicating its disapproval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within a Historic District.

dd. **Orthographic Projection.** A method of projection in which a three-dimensional object is represented by projecting lines perpendicular to a picture plane.

ee. **Place.** An open space of land within the historic district.

ff. **Plan View (or Plan).** An orthographic projection of the top or section of an object or structure on a horizontal plane, usually drawn to scale.

gg. **Plat.** A plan or map of land in the historic district indicating the location and boundaries of individual properties and improvement thereon.

hh. **Preservation.** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.

ii. **Preservation Restriction.** A right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a structure or site historically significant for its architecture, archaeology or associations, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the structure or site or in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of such structure or site.

jj. **Regular Member.** A member of the Commission who has full voting power.

kk. Regulations. Local design guidelines and standards of review promulgated by the Commission that interpret and implement statutory requirements and are in conformance with the Historic District Zoning Overlay.

ll. Rehabilitation. The process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

mm. Repair. Any change that is not construction, addition, demolition, moving, or alteration.

nn. Restoration. The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.

oo. Rules of Procedure. A set of rules adopted by the Commission pursuant to RSA 676:1 concerning the method of conducting the Commission's business.

pp. Scale. A certain proportionate size, extent, or degree, usually judged in relation to some standard or point of reference.

qq. Setback. The minimum required distance from every structure to the property lines of a lot, established by the Zoning Ordinance to provide for air, light, solar access, and privacy.

rr. Site Plan. Proposed plan for development, submitted by the property owner for review by the Commission, that shows the form, location, and orientation of a building or group of buildings on a site, usually including dimensions, landscaping and other significant features of the plot.

ss. Structure. Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to: buildings, fences, stone walls, gazebos, signs, backstops for tennis courts and ballparks, antennae, above ground pools and hot tubs, air conditioning units, propane tanks, playground equipment, etc.

tt. Zoning Ordinance. The laws of the Town of Amherst regulating the building, alteration, installation, repair, or change of buildings, land, or uses within the borders of the entire town.

II. MEMBERSHIP

- 2.01 Regular Members. Membership shall consist of not fewer than five nor more than seven regular members, one of whom shall be an *ex officio* member of the Board of Selectmen and one of whom may be an *ex officio* member of the Planning Board.
- 2.02 Alternate Members. Not more than five alternate members may be appointed. Whenever a regular member is either absent or disqualifies himself or herself, the chairperson shall designate an alternate to vote in his or her place; except that only the alternate designated by the Board of Selectmen for its *ex officio* member shall serve in place of that member.
- 2.03 Appointment. The *ex officio* members from the Board of Selectmen and the Planning Board shall be appointed by vote of their respective boards. All other regular members and alternate members shall be appointed by the Board of Selectmen.
- 2.04 Qualifications. In determining each member's qualifications, the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the historic district commission. To the extent that professionals in the following disciplines are available in the community, the Board of Selectmen should make reasonable efforts to appoint members from those professions: architectural history, archaeology, cultural anthropology, New England history, or planning. Information on the credentials of the Commission members shall be kept on file with the Zoning Administrator and available for public review. Members shall be residents of the Town of Amherst, but are not required to reside in the Amherst Village Historic District *per se*.
- 2.05 Terms. Except as provided for in RSA § 673:5 I (b), The term of any *ex officio* member shall coincide with the term for that other office. The term of all other regular and alternate members shall be three years. In accordance with RSA § 673:5 II, the initial terms of regular members first appointed to the Commission shall be staggered so that no more than three appointments occur annually in the case of a seven member Commission and no more than two appointments occur annually in the case of a five or six member Commission, except when required to fill vacancies. The terms of alternate members shall be staggered in a similar manner so that no more than two appointments occur annually in the case of a Commission with four or five alternate members and no more than one appointment occur annually in the case of a Commission with two or three alternate members.
- 2.06 Vacancies. The Board of Selectmen shall act within sixty days to fill a vacancy, including expired terms. Vacancies shall be filled as provided by RSA § 673:12.
- 2.07 Removal. Members may be removed for cause in a manner provided by RSA § 673:13. In addition, the chairperson may request the resignation of any member who fails to attend four consecutive meetings without just reason.

III. OFFICERS

- 3.01 Positions and terms. A Chairperson, Vice Chairperson, and Secretary shall be elected by a vote of the membership of the Commission. The term of every officer and

Chairperson elected shall be for one year. Neither an *ex officio* nor an alternate member shall serve as Chairperson.

- 3.02 Chairperson. The Chairperson shall preside at all meetings of the Commission, call meetings at the frequencies specified below, see that orders and resolutions of the Commission are carried out, and sign all official correspondence of the Commission.
- 3.03 Vice-Chairperson. The Vice-Chairperson shall perform all the duties of the chairperson in her or his absence.
- 3.04 Secretary. Pursuant to RSA § 91-A, the Secretary shall record the minutes of the meetings of the Commission and shall provide the original, signed copy of said minutes to the Zoning Administrator for public inspection within 144 hours of a public meeting or, unless voted otherwise pursuant to RSA § 91-A:3 III, within 72 hours of a non-public meeting.

IV. MEETINGS

- 4.01 Regular Meetings. The Commission shall meet regularly on the third Thursday of each month, unless there is no business before the Commission.
- 4.02 Special Meetings. Special meetings of the Commission shall take place at the call of the Chairperson or as the Commission deems necessary.
- 4.03 Site Review. The Commission may table, within the limits imposed by subparagraph 5.01 (d), final consideration of an application pending a site review. The purpose of the site review is to validate the information provided in the application as well as to determine the effects of the proposal on the subject building, its setting, the surrounding area, and neighboring properties. For proposals concerning new construction, new exterior additions, moving of structures, site work, or fencing, the applicant is required to stake the ground to show the dimensions and location of the proposed building, addition, fencing, or site work. In addition, in the case of new construction and new exterior additions, the applicant is required to float a balloon or erect a pole with a flag upon the top to indicate the maximum height of the proposed construction.
- 4.04 Quorum. A majority of the voting members shall constitute the quorum necessary in order to transact business in any meeting of the Commission.

V. ADMINISTRATION

- 5.01 Building Permits, Certificates of Approval, and Notices of Disapproval. Whether or not a building permit is also required under the Zoning Ordinance, the Commission shall review all applications to construct, repair, move, demolish, change use, or alter any structure within the Amherst Village Historic District for its impact on the district. Upon review and determination of the application, the Commission shall file either a Certificate of Approval or a Notice of Disapproval with the Zoning Administrator. Determination on an application shall be in the opinion of a quorum of the voting members of the Commission.

- (a) Approval. Work shall not commence unless a Certificate of Approval is filed with the Zoning Administrator. In cases where a building permit is also required by the Zoning Ordinance, the Zoning Administrator shall not issue the building permit until or unless the Commission has filed a Certificate of Approval. The "Certificate of Approval/Notice of Disapproval" form appended hereto shall be the form upon which all approvals are granted and shall be deemed to be a part of these Rules of Procedure.
- (b) Disapproval. In case of disapproval of any application submitted to the Commission, the grounds for such disapproval shall be adequately stated in the Notice of Disapproval. The Notice of Disapproval shall be binding upon the Zoning Administrator and no building permit shall be issued. Notice of Disapproval holders may make modifications to the disapproved plans and resubmit the application for hearing without prejudice. The "Certificate of Approval/Notice of Disapproval" form appended hereto shall be the form upon which all disapprovals are communicated and shall be deemed to be a part of these Rules of Procedure.
- (c) Conditional Approval. In appropriate cases, the Commission may grant conditional approval of an application, which approval shall become final without further public hearing upon certification to the Commission by its designee, or based upon evidence submitted by the applicant, of satisfactory compliance with the conditions imposed. Final approval of an application may occur in the foregoing manner only when the conditions are:
 - 1. Minor plan changes as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment on the part of the Commission; or
 - 2. Conditions that are in themselves administrative and that involve no discretionary judgment on the part of the Commission.

All other conditions shall require an additional hearing and notice as provided in Section 5.02 (c), except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session were made known at the prior hearing.

- (d) Deadlines. The Commission shall file with the Zoning Administrator either a Certificate of Approval or a Notice of Disapproval pursuant to RSA § 676:8 III within 45 days after the filing of a completed application for the certificate with the Zoning Administrator, unless the applicant agrees to a longer period of time. Failure to file either the certificate or the notice within the specified period of time shall constitute approval by the Commission. Pursuant to RSA § 676:3 II, the Certificate of Approval or Notice of Disapproval shall be made available for public inspection within 72 hours after the Commission makes the decision.
- (e) Commencement of Work. The applicant shall wait until 20 calendar days have expired after the date the Certificate of Approval is filed with the Zoning

Administrator before commencing work to allow sufficient time for any aggrieved parties to appeal the decision. Upon commencement of work, the Certificate of Approval holder shall promptly and diligently pursue completion of the work approved. Work done under a Certificate of Approval shall commence within one year of issuance of the certificate thereof unless otherwise authorized by the Commission.

- (f) Completion of Work. Work done under a Certificate of Approval shall be completed within two years thereof unless otherwise authorized by the Commission. Where a Certificate of Approval holder submits a new application prior to completion of an outstanding Certificate of Approval, the Commission, prior to considering the new application, may require a showing of good cause for any unreasonable delay found by the Commission to have occurred concerning the outstanding Certificate of Approval.
- (g) Inspections. Upon completion of the work, the applicant shall call the office of the Zoning Administrator for a final inspection and a representative of the Commission shall be assigned to inspect the work for compliance with the Certificate of Approval. Notwithstanding the requirement for a final inspection, the Commission reserves the right to make periodic inspections while the work is in progress.

5.02 Application. The Commission shall issue a Certificate of Approval or Notice of Disapproval based upon the review and determination of an application. The form of application appended hereto shall be the form upon which all applications to the Commission shall be made and shall be deemed to be a part of these Rules of Procedure. Application forms shall be made available through the office of the Zoning Administrator.

- (a) Deadlines. The applicant shall file the completed application with the Zoning Administrator at least 10 days prior to the meeting at which the application will be considered.
- (b) Completion. The Commission will only consider a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that, in the discretion of the Commission, sufficient information is included or submitted to allow the Commission to proceed with consideration and to make an informed decision. A completed application shall, at a minimum, include:

Form. A completed application form along with a copy of any plats, site plans, drawings, photographs, renderings, reference materials, etc. required to be included with the application form, and any specific factual material requested by the Commission.

Fee. The payment of the application fee.

Interested Parties. A list of the names and addresses of the applicants and three sets of addressed adhesive mailing labels per address.

Abutters (only applications for new construction, new exterior additions, demolition, moving, site work, change of use, or fencing). A list of the names and addresses of all abutters as defined in RSA § 672:3 and three sets of addressed adhesive mailing labels per listed abutter. Abutters shall also be identified on any plat or site plan submitted to the Commission.

Variances. If applicable, a copy of the letter from the Zoning Board of Adjustment granting a request for variance to the Zoning Ordinance.

- (c) Determination of Completion. The Commission shall, within 30 days following filing of the application, determine if a submitted application is complete according to these Rules of Procedure and shall vote upon its acceptance. Upon determination by the Commission that a submitted application is incomplete, the Commission shall notify the applicant of the determination in accordance with Section V, paragraph 5.01 (b), and shall describe the information, procedure, or other requirement necessary for the application to be complete in accordance with Section V, paragraph 5.01 (d). The applicant may correct deficiencies in the application and reapply at a later date without prejudice.
- (d) Public Hearing. Except as provided for in this section, no application may be denied or approved without a public hearing on the application. At the hearing, any applicant, abutter, holder of conservation or preservation restriction, or any person with a direct interest in the matter may testify in person or in writing. Public hearings shall not be required when:
 - 1. The Commission disapproves an application based upon failure of the applicant to supply information required by the Rules of Procedure; or
 - 2. The applicant fails to meet reasonable deadlines established by the Commission; or
 - 3. The applicant fails to pay costs of notice or other fees required by the Commission.
- (e) Notice. The Zoning Administrator shall provide notice of public hearings on applications as follows:
 - 1. Preliminary Conceptual Consultations: Notice shall not be required for Preliminary Conceptual Consultations between an applicant and the Commission pursuant to subparagraph 5.03 (c).
 - 2. Applications for new construction, new exterior additions, demolition, moving of structures, site work, change of use, or fencing: Notice shall be provided to the applicant and abutters by mail of the date upon which the Commission will consider the application. Notice shall be sent by certified mail at least 5 days prior to the meeting. Notice to the general public shall also be given at the same time by posting. The notice shall include a general description of the proposal that is the subject of the application and shall identify the applicant and the location of the proposal. All costs of notice shall be paid in advance by

the applicant. Failure to pay such costs shall constitute valid grounds for the Commission to terminate further consideration and to deny the application without public hearing.

3. All applications other than for new construction, new exterior additions, demolition, moving of structures, site work, change of use, or fencing: Notice shall be provided to the applicant by mail of the date upon which the Commission will consider the application. Notice shall be sent by regular mail at least 5 days prior to the meeting. The notice shall include a general description of the proposal that is the subject of the application and shall identify the applicant and the location of the proposal.

5.03 Preliminary Conceptual Consultation. For proposals concerning new construction, new exterior additions, demolition, moving of structures, site work, change of use, or fencing, it is strongly recommended, but not required, that the applicant meet with the Commission prior to filing a complete application.

- (a) Purpose. The purpose of the meeting is to allow for an informal exchange between the applicant and the Commission to review the basic concept of the proposal and offer suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. In this manner, the Commission may provide preliminary, non-binding guidance on the suitability of the proposal with a minimum burden of expense on the applicant. Such consultation shall bind neither the applicant nor the Commission and statements made by Commission members shall not form a basis for disqualifying said members or invalidating any action taken.
- (b) Materials. Materials presented for this discussion should include plats, site plans, drawings, photographs or other sufficient information to allow for a meaningful understanding of the intended conceptual design.
- (c) Notice. Such discussion may occur without necessity of giving formal, public notice as otherwise required under paragraph 5.02 (e), but such discussions may occur only at formal meetings of the Commission.

5.04 Due Diligence. The Commission may table, within the limits imposed by subparagraph 5.01 (d), final consideration of an application for the purposes of seeking advice, recommendations, or reports from professional, educational, cultural, civic or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

5.05 Appeals. Any person or persons jointly or severally aggrieved by a decision of the Commission shall have a right to appeal to the Zoning Board of Adjustment. Upon appeal, the Zoning Board of Adjustment shall review the decision of the Commission to determine whether the decision conforms to the provisions of the Historic District Zoning Overlay and to these Rules of Procedure adopted thereunder.

- 5.06 Enforcement. These Rules of Procedure shall be enforced in accordance with the provisions of Article VI of the Zoning Ordinance, and violators shall be subject to the penalty provisions contained therein.

VI. CODE OF CONDUCT

- 6.01 Commission members and staff shall not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for personal benefit or private gain for themselves or others, particularly those with whom they have family, business, organizational, or other ties.
- 6.02 Commission members and staff who have a financial interest in a property, shall not participate in any discussion, hearing, or other Commission consideration of that property, whether as part of local review procedures pursuant to RSA § 674 and RSA § 676, or as part of actions (such as National Register nomination review procedures) pursuant to the responsibilities of a "Certified Local Government" under the National Historic Preservation Act, or under the associated requirements established by the National Park Service and the State of New Hampshire for participation in the Certified Local Government program.
- 6.03 Commission members and staff shall not participate in the preparation of, administration, monitoring, approval, or payment of any grants or contracts made to or by the Commission if a real or apparent conflict of interest would be involved.
- 6.04 In conformance with RSA § 673:14, no member of the Commission shall sit upon the hearing of any question which the Commission is to decide if that member has a direct, personal, or pecuniary interest in the outcome which differs from the interest of other citizens or would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.
- 6.05 When uncertainty arises as to the application of these provisions to a Commission member in particular circumstances, the Commission shall, upon the request of that member or another member of the Commission, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Commission members, except as provided by local ordinance or by these Rules of Procedure.
- 6.06 If a member of the Commission is disqualified or unable to act in any particular case before the Commission, the chairperson shall designate an alternate to act in place of the disqualified member as specified in RSA § 673:11.
- 6.07 Any member of the Commission who may have an apparent, potential, or actual conflict of interest with respect to any deliberations or matters before the Commission shall absent himself or herself from the Commission's meeting while such matters are being considered or acted upon.

6.08 Commission members and staff who are in office or employed at the time these code of conduct provisions are adopted shall be exempted for a period not to exceed one year from the date of adoption, pursuant to RSA § 31:39-a.

Zoning Overlay (Section 4-15, Historic District)

Regulated "Activities" (II 2.2)

- ☐ Alteration of exterior appearance of existing and proposed structures
- ☐ Alteration of use and appearance of exterior spaces

Certificate of Approval Required (IV 4.1)

- ☐ Alteration
- ☐ Construction
- ☐ Repairs (involving change in design, materials, appearance) (IV 4.1 & VI 6.6 a)
- ☐ Moving of structures
- ☐ Demolition
- ☐ Change of use of structures or places
- ☐ Examples ("included, but not limited to"):
 - ☐ architectural detail of exterior walls
 - ☐ windows or doors
 - ☐ siding
 - ☐ porches
 - ☐ fire escapes
 - ☐ roofing
 - ☐ chimneys
 - ☐ antennae
 - ☐ re-grading
 - ☐ paving and re-paving
 - ☐ removal of mature trees
 - ☐ fences
 - ☐ retaining walls
 - ☐ signage
 - ☐ on-site lighting
 - ☐ commercial trash receptacles
 - ☐ telecommunication towers

Certificate of Approval NOT Required (IV 4.1)

- ☐ Maintenance and repairs (not involving change in design, materials, appearance) (IV 4.1 & VI 6.6 a.)
- ☐ Grounds keeping

- ☐ Storm doors
- ☐ Storm windows
- ☐ Painting
- ☐ Paint color